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| 9.1 | NO. 305 (LOT: 4, D/P: 1602) FITZGERALD STREET, WEST PERTH - CHANGE OF USE FROM WAREHOUSE TO RECREATION PRIVATE (AMENDMENT TO APPROVED) (UNAUTHORISED EXISTING DEVELOPMENT) |
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Ward: South

- Attachments:**
1. Consultation and Location Map
 2. Development Plans
 3. Applicant Justification
 4. Parking Management Plan
 5. Noise and Vibration Assessment Report
 6. Previous Development Approvals
 7. Agenda and Minutes of Ordinary Council Meeting 17 November 2020
 8. Summary of Submissions - Administration's Response
 9. Summary of Submissions - Applicant Response
 10. Image of Existing Signs
 11. Determination Advice Notes

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, **APPROVES** the application to amend Development Approval 5.2014.124.1 dated 4 June 2014 for Change of Use from Warehouse to Recreation Private (Amendment to Approved) at No. 305 (Lot: 4; D/P: 1602) Fitzgerald Street, West Perth, in accordance with the plans shown in Attachment 2, subject to the following and with the associated determination advice notes included in Attachment 11:

1. All conditions and requirements detailed on development approval 5.2014.124.1 dated 4 June 2014 continue apply to this approval, except as follows:
 - 1.1 Condition 2 is deleted;
 - 1.2 Condition 3 is deleted and replaced with:
 - 1.2.1 Subject to Condition 8.5, the maximum total number of clients shall be limited to twenty (20) at any one time;
 - 1.3 Condition 4 is deleted and replaced with:
 4. Hours of Operation
 - 4.1 Prior to the installation of the replacement flooring and the approval of the Noise and Vibration Management Plan in satisfaction of Condition 8 below, the hours of operation are limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday; and
 - 4.2 Upon installation of the replacement flooring and the approval of the Noise and Vibration Management Plan to the City in satisfaction of Condition 8 below, the hours of operation are limited to 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
 - 1.4 Condition 8 is added:
 8. Noise and Vibration Management
 - 8.1 Replacement of existing flooring shall be installed in accordance with all recommendations of the approved Fibre Active Gym Noise and Vibration Assessment dated 3 November 2021 (Acoustic Consultants Australia - Report 10.00158R-03), to the satisfaction of the City;

- 8.2 Following the installation of flooring in accordance with Condition 8.1, the Applicant shall engage a suitably qualified acoustic consultant to:
- (a) Certify that the replacement flooring has been installed in accordance with the recommendations of the approved Fibre Active Gym Noise and Vibration Assessment dated 3 November 2021 (Acoustic Consultants Australia – Report 10.00158R-03);
 - (b) Conduct detailed noise and vibration measurements to ascertain whether actual noise emissions from activities at the premises exceed the assigned levels specified in the *Environmental Protection (Noise) Regulations 1997 (Assigned Levels)* at all times during which the premises operates, namely 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday. Noise measurement testing shall include, but is not limited to:
 - Amplified music;
 - Noise from coach directions;
 - All weight drop scenarios;
 - Mechanical plant and equipment; and
 - Testing of a class with 20 patrons;
 - (c) Identify any additional measures required to ensure noise emissions from activities at the premises do not exceed the Assigned Levels at all times during which the premises operates; and
 - (d) Prepare a report which identifies any additional measures required to ensure noise emissions from activities at the premises do not exceed the Assigned Levels (Report) and confirms that the replacement flooring has been installed in accordance with the recommendations of the approved Fibre Active Gym Noise and Vibration Assessment dated 3 November 2021 (Acoustic Consultants Australia – Report 10.00158R-03);
- 8.3 The applicant shall provide a copy of the Report (referred to in Condition 8.2(d)) to the City once completed;
- 8.4 Following the completion of the Report in accordance with Condition 8.2(d), provide a noise and vibration management plan (NVMP) to the City for approval by the City which incorporates any recommendations and/or measures specified in the Report and which:
- (a) provides mitigation measures to ensure noise emissions at the premises do not exceed the Assigned Levels at any time during which the premises is operating, namely 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
 - (b) states that the roller door and hinged access door between the building and Eden Street shall be fully closed at all times including for all access and egress, unless otherwise recommended by the Report;
 - (c) incorporates any measures specified in the Report;
 - (d) a procedure for how the operator would deal with complaints and breaches of the NVMP;
- 8.5 All assumptions, recommendations and measures specified in the Report shall be undertaken in accordance with the Report and verified by an acoustic consultant, to the City's satisfaction, prior to the commencement of the hours of operation 5:30am to 6:00am and 9:00am to 5:00pm Monday to Friday and 12:00pm to 5:00pm Saturday as well as the increase of

patron numbers to a maximum of 20 during any operating hours, and maintained thereafter to the satisfaction of the City. The use shall always operate in compliance with the NVMP, to the satisfaction of the City;

8.6 The NVMP shall be reviewed by the operator, to the satisfaction of the City:

(a) as improvements are identified or required by the operator or the City; and

(b) within 30 days of a change to the recreation private operator;

8.7 Any changes identified during a review set out in Condition 8.6 above are to be incorporated into an updated NVMP and approved by the City. The development shall operate in accordance with the NVMP as amended from time to time, to the satisfaction of the City;

1.5 Condition 9 is added:

9. Signage

This approval relates to the signage shown on the approved plans only. Development approval is required for any additional signage proposed on-site in addition to that shown on the approved plans; and

1.6 Condition 10 is added:

10. Activities associated with the Gym

All gym activities shall be contained wholly within the building.

PURPOSE OF REPORT:

To consider an application for development approval for an amendment to a previous approval for a Change of Use from Warehouse to Recreation Private (Unauthorised Existing Development) at No. 305 Fitzgerald Street, West Perth (subject site).

PROPOSAL:

The subject site is located at No. 305 Fitzgerald Street, West Perth, as shown on the location plan as included as **Attachment 1**.

A Recreation Private use (Gym) has operated at the subject site from August 2013 in accordance with the development application approved by Council at the Ordinary Meeting of Council held on 26 March 2013 and amended application approved by Administration under Delegated Authority on 4 June 2014.

The use is a 'CrossFit Gym' which is a structured high-intensity interval training fitness class under the guidance of a coach with activities consisting of a combination of free weight exercises, skipping and rowing.

The amendments proposed as part of this development application are summarised as follows:

Occupancy Numbers

The proposed development application seeks to increase the number of occupants on-site at any given time. The Gym currently operates in accordance with Conditions 2 and 3 of the previous approval that provides the following occupancy numbers:

2. *The maximum total number of employees shall be limited to five (5) at any one time*

3. *The maximum total number of clients shall be limited to fifteen (15) at any one time.*

The application proposes to delete Condition 2 relating to the maximum number of employees and proposes to amend Condition 3 relating to the maximum number of clients, to allow a maximum of 20 clients on-site at any one time.

Operating Hours

The proposed development application seeks an amendment to the previously approved operating hours to broaden the usage of the facility. The use currently operates in accordance with Condition 4 of the previous approval that provides the following operating hours:

4. *The hours of operation shall be limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday, inclusive and accordingly, the classes shall be scheduled to allow a 15 minute interval between classes to enable sufficient time for patrons to arrive and leave the facility.*

The application proposes to amend Condition 4 relating to the hours of operation to:

- (a) Allow the premises to operate from 5:30am to 8:00pm Monday to Friday;
- (b) Allow the premises to operate from 7:00am to 5:00pm on Saturday; and
- (c) Remove the requirement to have a 15-minute interval between classes.

Advertising Signage

The development application also seeks approval for three unauthorised existing signs on the Fitzgerald Street elevation of the building.

The signs are unauthorised existing development as they were erected on the site without first obtaining development approval from the City. Development approval for the signs is required as they do not comply with the City's Policy No. 7.5.2 – Signs and Advertising (Signs and Advertising Policy).

These three advertising signs are the only unauthorised aspect of the development application as all other aspects of the use remain as per the previous development approval.

The proposed development plans are included in **Attachment 2**. In support of the proposed amendments the applicant has provided written justification as included as **Attachment 3**, a Parking Management Plan as included as **Attachment 4** and a Noise and Vibration Assessment Report as included as **Attachment 5**.

BACKGROUND:

| | |
|-----------------------------|--|
| Landowner: | Jedan Holdings Pty Ltd |
| Applicant: | Bjorn Voon |
| Date of Application: | 4 August 2020 |
| Zoning: | MRS: Urban LPS2: Zone: Commercial R Code: N/A |
| Built Form Area: | Activity Corridor |
| Existing Land Use: | Recreation Private |
| Proposed Use Class: | Recreation Private |
| Lot Area: | 354.5m ² |
| Right of Way (ROW): | No |
| Heritage List: | No |

Site Context

The subject site is bound by Fitzgerald Street to the south-east, Eden Street to the north-west and commercial properties to the north and south. On the opposite side of Fitzgerald Street are commercial developments and on the opposite side of Eden Street are residential developments including Single Houses and Grouped Dwellings.

The subject site and adjoining properties along Fitzgerald Street are zoned Commercial under the City's Local Planning Scheme No. 2 (LPS2) and are within the Activity Corridor as prescribed under the City's Local Planning Policy No. 7.1.1 – Built Form (Built Form Policy). The adjoining properties across Eden Street

are zoned Residential R80 under LPS 2 and are within the Residential Built Form Area under the Built Form Policy.

Approval History

At its Ordinary Meeting of 26 March 2013, Council approved the proposed change of use from 'Warehouse' to 'Recreation Private'. In accordance with Condition 4 of the approval, the term of approval issued for this application was one year after which time the applicant was required to obtain further development approval.

On 20 March 2014, the applicant lodged a development application seeking approval for the Recreation Private use in perpetuity. The application was approved under delegated authority on 4 June 2014. This was as per the Delegated Authority Register 2013/2014 that did not require amended development applications to be referred to Council for determination and where the application received less than six written objections when advertised.

The Minutes of the 26 March 2013 Ordinary Council Meeting, the 4 June 2014 Delegated Approval Notice and previously approved development plans are included as **Attachment 6**.

Deferral of Development Application

Ordinary Meeting of Council (OMC) on 17 November 2020

The development application was presented to the OMC held on 17 November 2020.

Administration recommended that Council approve the application subject to conditions. The agenda for this meeting, which includes Administration's recommendation, is included in **Attachment 7**. The full agenda including all attachments is available through the following link: [Agenda of Ordinary Council Meeting 17 November 2020](#).

After consideration of the application, the following motion was carried by Council (5-2):

Council requires the provision of an acoustic report that addresses noise and vibration from the applicant, and proposed measures in response to the recommendation therein.

The minutes for this meeting are included in **Attachment 7**.

Summary of Changes Following Deferral of Application on 17 November 2020

Following deferral, the applicant took time to consider their options on how they would proceed with the proposal. This was complicated due to significant changes made to the *Planning and Development (Local Planning Schemes) Regulations 2015* that came into effect in February 2021. The changes included the removal for the need to obtain development approval for a greater range of land uses, including gyms. It was determined that the exemptions do not apply to the current proposal as it is an amendment to a previous development approval.

The applicant sought to address the deferral reason through the preparation and submission of a Noise and Vibration Assessment Report. As advised by the applicant, the preparation and submission of the report was delayed due to a shortage of available acoustic consultants resulting from the State and Federal Government building stimulus.

Administration supported extensions of time requested by the applicant for the acoustic report to be submitted. This is because the submission of an acoustic report is fundamental to Council's deferral of its consideration of the application and would prescribe what noise mitigation measures need to be put in place in relation to both the currently approved hours and the additional hours sought through this development application.

The report was initially submitted to the City in July 2021. Following assessment, revisions to the Noise and Vibration Assessment Report were requested by the City's Environmental Health Team and the Department of Water and Environmental Regulation (DWER). Following two further revisions, the final report was submitted in November 2021.

The final Noise and Vibration Assessment Report is included as **Attachment 5** and addresses all questions and issues that were raised by our Environmental Health Team and DWER over the course of assessment.

The acceptability of the outcomes of the Noise and Vibration Assessment Report are discussed in further detail in the Comments section of this report.

Previous Noise and Compliance Investigations

Since this matter was presented to Council on 17 November 2020, the City has continued two separate compliance investigations in relation to the operations of this business; to assess compliance with the existing development approval in accordance with the City's Policy No. 4.1.22 – Prosecution and Enforcement as well as the assessment of noise in accordance with the *Environmental Protection (Noise) Regulations 1997*.

In terms of planning compliance, regular inspections have been conducted and, when requested, the City has also met with the business owner, and neighbours to discuss expectations. On 13 April 2021, concerns were communicated with the business owner in relation to the gym being used outside of the approved hours during the day. The approved operating hours for the gym are 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday. Concerns raised related to noise and vibration from daytime use of the gym. Complaints were also received alleging gym activity was taking place outside the property on Eden Street.

The City had previously applied enforcement discretion in relation to daytime use, however due to ongoing concerns this discretion was removed. Full enforcement of the development approval was applied from 5 May 2021. This decision was also made due to time extensions being granted for the development application. Regular site inspections occurred after this date, up to three times per week. Two breaches were observed on 13 May 2021 and 18 August 2021 when Planning Infringement Notices were issued.

Following the November 2020 OMC, the City offered sound level measurements to occupiers of neighbouring properties to determine if unreasonable noise was occurring. As the nature of concerns included alleged impacts from vibration, the City required assistance from the DWER due to the City not having measuring equipment or expertise to perform this function.

Noise and vibration measurements were conducted from a nearby commercial property between 29 January and 4 March 2021. The noise from dropping of gym weights complied with the applicable criteria for noise received at a commercial premises of the *Environmental Protection (Noise) Regulations 1997*. The permitted noise levels are higher if the receiving premises is a commercial property. The owners of a nearby residential premises were also offered sound level measurements to be taken from their property to determine the noise impact on their property. In response to concerns raised, offers were made by the City between January and September 2021, as well as prior to the November 2020 OMC. These offers have not been accepted. It is understood the complainant is still concerned with noise at times but the City cannot act further unless measurements are taken.

In May 2021, DWER provided a summary of their assessment of the vibration measurements, which found vibration levels exceeded the recommended criteria of Australian Standard 2670.2-1990 – Evaluation of human exposure to whole-body vibration – Continuous shock-induced vibration in buildings (1 to 80 Hz) (AS2670.2). This standard has been withdrawn and is therefore not enforceable by the City or DWER. There are no statutory levels for vibration and the current version of AS2670.2 does not contain criteria for assessment.

The 'Fibre Active Gym Noise and Vibration Assessment dated 3 November 2021 (Acoustic Consultants Australia – Report 10.00158R-03)' submitted does reference the withdrawn Australian Standard 2670.2-1990 – Evaluation of human exposure to whole-body vibration – as the focus of the report was on human comfort assessment.

Temporary Planning Exemptions Relating to the Impacts of COVID-19

In response to the COVID-19 Pandemic the City of Vincent and the Minister for Planning introduced a range of temporary planning exemptions. At the time of assessment, both the City's and the Minister for Planning's temporary planning exemptions are only operational up to three months after the State of Emergency declared for Western Australia has ended.

The City's current COVID-19 temporary planning exemptions permit Recreation Private land uses to alter their operation when located in the Commercial zone. This is subject to terms, including notifying the City and adjoining properties prior to commencement of a change to operating hours. The applicant has not taken up the temporary exemption to change its operating hours.

The Minister for Planning's Notice of Exemption does not include any exemptions for Recreation Private land uses. There is no ability for the gym to alter its operation under the Notice of Exemption.

DETAILS:**Summary Assessment**

The table below summarises the planning assessment of the proposal against the provisions of LPS2, Signs and Advertising Policy, Policy No. 7.5.21 – Sound Attenuation (Sound Attenuation Policy) and Policy No. 7.7.1 – Non-Residential Development Parking Requirements (Non-Residential Development Parking Policy). In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the Detailed Assessment section following from this table.

| Planning Element | Use Permissibility/ Deemed-to-Comply | Previously approved | Requires further Discretion |
|---------------------|--------------------------------------|---------------------|-----------------------------|
| Land Use | | ✓ | |
| Parking | ✓ | | |
| Bicycle Facilities | ✓ | | |
| Operating Hours | ✓ | | |
| Advertising Signage | | | ✓ |
| Sound Attenuation | ✓ | | |

Detailed Assessment

The deemed-to-comply assessment of the element that requires the discretion of Council is as follows:

| Advertising Signs | |
|--|----------------------------|
| Deemed-to-Comply Standard | Proposal |
| Policy No. 7.5.2 – Signs and Advertising Two wall signs permitted. | Three wall signs proposed. |

The above elements of the proposal that do not meet the specified deemed-to-comply standards are discussed in the Comments section below.

CONSULTATION/ADVERTISING:First Community Consultation

Community consultation was undertaken in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* for a period of 14 days from 4 September 2020 to 17 September 2020. The method of consultation included website notification and 14 letters being mailed to all the owners and occupiers of the properties adjoining the subject site, as shown in **Attachment 1**.

The City received a total of 98 submissions, including five objections and 93 letters of support.

Comments of support are summarised as follows:

- The gym is in a commercial strip on a major arterial road, being the right location for this kind of use;
- Local cafes and businesses benefit from the gym especially on the weekends due to the social aspect of the gym;
- The range in operating times allows for greater flexibility for members using the gym;
- The gym has actively been reducing noise impacts to surrounding properties; and
- Most members walk, cycle or use public transport as they live close or they come from work in the City. Parking is never an issue in this location.

Comments of concerns are summarised as follows:

- Dropping of weights, music and yelling of trainers causes excessive noise and vibration which impacts the amenity of adjoining properties;
- Noise issues from the premises have been ongoing for several years; and
- The noise management measures proposed have not been verified.

Second Community Consultation

Following the submission of the final Noise and Vibration Assessment Report, the application was advertised for a second time for a period of 14 days from 5 November 2021 to 18 November 2021. The method of consultation included website notification, an email sent to all previous submitters and 14 letters being mailed to all the owners and occupiers adjoining the subject site, as shown in **Attachment 1**.

The City received a total of 32 submissions, including 25 letters of objection and seven letters of support.

Regarding the letters of objection, the City received multiple submissions from some properties and pro-forma letters. Of the 25 letters of objection that were received, these were received from 13 property addresses and 10 were submitted as pro-forma (identical) letters.

Comments received in support of the proposal are summarised as follows:

- The gym provides social benefits to the community; and
- The location is the right place to have a gym given it is on a main arterial road in a Commercial area.

Comments received in objection of the proposal are summarised as follows:

- Dropping of weights, music and yelling of trainers causes excessive noise and vibration which impacts the amenity of adjoining residential and commercial properties;
- The gym is not appropriate within a quiet residential / commercial area due to the noise and vibration impacts to adjoining properties;
- Vibration impacts are resulting in damage to adjoining buildings; and
- Concerns that the operator may continue to breach requirements of the approval in the future.

A summary of all submissions received across both consultation periods and Administration's response is included in **Attachment 8**. The Applicant's response to the summary of submissions is included in **Attachment 9**.

Design Review Panel (DRP):

Referred to DRP: No

The application did not require referral to the DRP given there are no internal or external works proposed, except for advertising signage.

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- *Environmental Protection (Noise) Regulations 1997*;
- City of Vincent Local Planning Scheme No. 2;
- Community and Stakeholder Engagement Policy (formerly Policy No. 4.1.5 – Community Consultation);
- Policy No. 7.5.2 – Signs and Advertising;
- Policy No. 7.5.21 – Sound Attenuation;
- Policy No. 7.7.1 – Non-Residential Development Parking Requirements;
- Policy No. 4.1.22 Prosecution and Enforcement; and
- Australian Standard AS 2670.2-1990: *Evaluation of human exposure to whole-body vibration, Part 2: Continuous and Shock-induced Vibrations in Buildings (1 Hz to 80 Hz)*¹.

Planning and Development Act 2005

In accordance with Schedule 2, Clause 76(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Part 14 of the *Planning and Development Act 2005*, the applicant would have the right to apply to the State Administrative Tribunal for a review of Council's determination.

Delegation to Determine Applications:

The application is being referred to Council for determination in accordance with the City's Register of Delegations, Authorisations and Appointments. The application proposes to amend a development approval previously determined by Council that impacts the conditions imposed.

RISK MANAGEMENT IMPLICATIONS:

There are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Community Plan 2018-2028:

Innovative and Accountable

We are open and accountable to an engaged community.

SUSTAINABILITY IMPLICATIONS:

There are no implications relating to Environmentally Sustainable Design Provisions of the City's Policy No. 7.1.1 – Built Form, as no development works are proposed as part of this application.

FINANCIAL/BUDGET IMPLICATIONS:

There are no finance or budget implications of this report.

COMMENTS:Land Use

The land use of the proposal is not subject to Council's discretion in determining the application. This is because the proposal remains consistent with the Recreation Private definition under LPS2 and the existing approval.

Council is only considering changes to the previously approved operation that relate to operating hours and the number of staff and patrons on-site at any one time. Council is also considering the unauthorised existing signage.

Administration's comments in respect to each of these relevant matters are provided below.

Car Parking

The following proposed amendments to previous conditions of approval would impact on car parking provisions and are discussed below:

- The proposed deletion of Condition 2 relating to the maximum number of employees permitted on-site at any given time;
- The proposed amendment to Condition 3 relating to the maximum number of clients, to allow a maximum of 20 clients on-site at any one time; and
- The proposed amendment of Condition 4 of the previous development approval to remove the requirement for a 15-minute interval to be provided between classes.

Applicant Justification

The Applicant has provided written justification and a Parking Management Plan in support of the proposed amendments to conditions, as included in **Attachment 3** and **Attachment 4** respectively. The Applicant's justification for the amendments is summarised below:

- The condition relating to the removal of the requirement for intervals between classes is not considered to be valid and applicable given the requirement for an interval is not referenced in any of the City's planning policies;
- Sufficient parking is provided in the locality to accommodate the use. As sufficient parking exists, the interval period is considered unreasonable in the context of class scheduling;
- The site is within close proximity to alternative transport including high frequency bus routes and pedestrian and cycle pathways. The use of these alternative methods would be encouraged by the owner; and
- Classes are not open to the public and must be reserved online, which provides certainty to the numbers attending the class.

Previous Approvals and Policy Requirements

In accordance with the Non-Residential Development Parking Policy, the Gym requires 0.22 car bays per person.

Under the Applicant's justification submitted as included in **Attachment 3**, the Gym proposes a total of 22 people to be on-site at any given time, including 20 clients and two staff, resulting in a requirement for 4.84 car bays to be provided on-site. There are three constructed car-bays on-site accessed from Eden Lane. The proposal results in a car parking shortfall of 1.8 car bays on-site.

Under the 2013 development approval, a car parking shortfall of 2.06 bays was approved, with the requirement for a cash-in-lieu payment of \$7,203. This was based on a total of 11 people being on-site at any one time.

Under the 2014 amended development approval an additional parking shortfall of 1.66 bays was approved with no additional requirement for cash-in-lieu contributions. This was based on a total of 20 people being on-site at any one time.

A total shortfall of 3.72 bays has been previously approved for the Gym under the 2013 and 2014 development approvals.

The City's Non-Residential Development Parking Policy came into effect in March 2018 that applied revised parking requirements for a Recreation Private land use. While occupancy numbers are proposed to increase on-site, the revised parking provisions for Recreation Private under the current policy do not result in additional parking requirements for the site.

Based on the current policy requirements and occupancy numbers, the development does not provide a further parking shortfall than that previously approved.

Administration Comments

The removal of Condition 2 relating to a limit on employees permitted on-site at any one time; the amendment to Condition 3 relating to the maximum number of clients increasing by five people; and the removal of the requirement for a 15-minute interval to be provided between classes is suitable for the following reasons:

- Administration did not receive community consultation objections in relation to car parking and the proposed condition modifications. The City received a number of support letters that highlighted car parking within the area is sufficient for members;
- The development does not result in a further shortfall to the previously approved parking shortfall;
- After seven years of operation, the Gym has demonstrated that the parking for the use does not have a detrimental impact on traffic or parking for residents or business in the area. The City has not received any complaints relating to car parking since the use commenced operation;
- The purpose of the Condition requiring intervals between classes was to ensure clients could leave the premises prior to new classes commencing to assist with car parking availability. There are several on-street parking options within proximity of the subject site which could suitably accommodate parking without the need for intervals between classes, including:
 - 16 bays along Eden Street between Bulwer Street and Vincent Street (no time restrictions applicable);

- 10 bays along Fitzgerald Street between Bulwer Street and Vincent Street (only time restrictions relate to bus lanes. No parking permitted between 6:30am – 9:00am heading south. No parking permitted between 4:30pm – 6:00pm heading north);
- 36 bays along Bulwer Street between Fitzgerald Street and Vincent Street (2 hour time restriction between 8:00am and 5:30pm);
- The development provides four short term bicycle bays and could provide long term bicycle bays within the premises. End of trip facilities have been provided to accommodate visitors accessing the development by cycling. There are dedicated cycle lanes on both sides of Bulwer Street and in addition there are footpaths provided on both sides of Fitzgerald Street, Eden Street and Vincent Street;
- The subject site is well serviced by public transport being located on a high frequency bus route along Fitzgerald Street; and
- There is minimal risk removing the condition requiring a number of staff on-site as the Applicant's written justification details that two staff would be expected to be on-site at any given time. It is not expected that the number of staff would substantially increase given the client numbers proposed. It is likely that staff, if driving to work, would park within the on-site bays.

Sufficient on-site parking is provided for staff of the development and there is sufficient alternative transport methods and public parking within the vicinity of the subject site to accommodate any customer parking demand. The amendments as proposed meet the objectives of the Non-Residential Development Parking Policy and are supported.

Signage

The City's Signs and Advertising Policy permits a maximum of two wall signs per tenancy. The development application seeks approval for three unauthorised existing wall signs to the Fitzgerald Street elevation. The dimensions and location of the signs are shown in the development plans as included in **Attachment 2** and a streetscape image of the existing signs has been included as **Attachment 10**.

The Signs and Advertising Policy allows the City to apply discretion to the Policy's standards where the standard is unreasonable or undesirable. The wall sign standards of the Signs and Advertising Policy are unreasonable in this instance due to the existing site conditions and building form.

Businesses generally provide a range of different sign types to advertise their business name, contact details and services available on site. The provision of different signage types is permitted under the Signs and Advertising Policy if they meet the relevant standards. As the building is setback 5.2 metres from the street and does not have an awning, it removes opportunities for the applicant to incorporate different signage options to advertise the business, such as awning signs. The existing site conditions and building form largely restrict the applicant to provide wall signs only to promote the business.

The Signs and Advertising Policy permits alternate types of signs such as monolith, pylon, or hoarding signs. These types of signs would be more impactful to the streetscape and character of the area that the extent of variations sought to the number of wall signs. This is because they would likely be larger in size and be located closer to the street. It is therefore unreasonable in this instance to require compliance with the specified wall sign standards of the Signs and Advertising Policy.

As the wall sign standards are unreasonable in this instance, an assessment is required against the policy objectives and the variation of standards principles of the Signs and Advertising Policy. The proposal is consistent with these objectives and principles for the following reasons:

- The signs proposed are within the permitted dimensions as prescribed by the Signs and Advertising Policy. The policy permits wall signs to be provided to a maximum of 10 percent of the total wall area. The three signs proposed are provided to 8.5 percent of the front façade;
- The scale and design of the signage is appropriate to the building and the architectural detailing to which it relates. The primary sign is provided above the central entry door and identifies the business name and contact details. Two smaller signs sit above the two windows and identify the type of fitness classes offered on-site. The scale and siting of these signs do not obscure any architectural detailing and provide appropriate exposure of the proposed use;
- The additional signage does not result in a proliferation of signage to the street as they are setback 5.2 metres from the front boundary, do not project forward of the façade and given they are appropriately integrated into the building design in terms of location and size;

- The number of signs provided and the size of each sign is compatible with signs of surrounding commercial developments. A summary of the number of signs to surrounding commercial developments is provided below:
 - No. 307a Fitzgerald Street – three signs including awning and window signs;
 - No. 307b Fitzgerald Street – four signs including awning and window signs;
 - Nos. 308-312 Fitzgerald Street – four signs including monolith, window and awning signs;
 - No. 296 Fitzgerald Street – four signs including created roof, awning, window and fence signs; and
 - No. 289 Fitzgerald Street – three signs including wall, awning and ground based signs; and
- The City did not receive specific community submissions relating to the proposed advertising signage.

A condition of development approval has been recommended that confirms the approval is for the signage shown on the approved plans only and any additional signage requires further development approval from the City. An advice note also clarifies that this means development approval would be required irrespective of whether additional signs comply with the Signs and Advertising Policy standards. The advice note also details that a signage strategy should accompany any future application that addresses Standards and Objectives of the City's Signs and Advertising Policy. Administration recommends this condition and advice note as the variations to wall signs are supported on the basis that they are the only advertising signs across the site and any additional signage proposed would need to be assessed further.

Noise Management

Proposed Amendments

The application seeks approval for additional operating hours to broaden the use of the Gym. The use currently operates in accordance with Condition 4 of the previous approval that provides the following operating hours:

4. *The hours of operation shall be limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday, inclusive and accordingly, the classes shall be scheduled to allow a 15 minute interval between classes to enable sufficient time for patrons to arrive and leave the facility.*

The additional operating hours to be considered as part of this application are:

- Monday to Friday 5:30am – 6:00am;
- Monday to Friday 9:00am – 5:00pm; and
- Saturday 12:00pm – 5:00pm.

Acoustic Requirements

The City does not have any Local Planning Policies that prescribe permitted operating hours for Recreation Private uses.

The City's Sound Attenuation Policy provides the process and extent of acoustic reporting required in determining what noise attenuation measures would be required for development proposals. The objective of the Sound Attenuation Policy is to protect the amenity of surrounding properties from noise impacts.

The Sound Attenuation Policy requires acoustic reports to be submitted for development applications for non-residential uses that involve amplified music; that use mechanical plant equipment including air conditioners; that have areas where groups of people may gather; or that have other significant noise emitting activities.

Mitigation measures recommended in acoustic reports are case-by-case. This is because it is dependent on the construction of the subject building, zoning of the land, intensity of the use and land uses located nearby. Mitigation measures recommended differ between proposals due to these factors.

Acoustic reports generally provide all recommendations for noise mitigation in the report upfront but may require some recommendations to be implemented before confirming the proposal meets the relevant Assigned Levels within the *Environmental Protection (Noise) Regulations 1997*. In these instances, staged testing is required once some recommendations have been implemented.

The current Sound and Attenuation Policy was in effect at the time of assessment for the previous development applications for the use, but they were approved without any acoustic report or noise management plan in support of the use.

Noise and Vibration Assessment Report

Following deferral of the application at the 17 November 2020 OMC, the applicant submitted a Noise and Vibration Assessment Report prepared by a qualified acoustic and vibration consultant, Acoustic Consultants Australia. The Noise and Vibration Assessment Report is included as **Attachment 5**.

The Noise and Vibration Assessment Report assesses noise and vibration generated from the gym and its impact on adjoining properties.

In considering the findings of the Noise and Vibration Assessment Report, the following key assessment factors should be noted:

- Noise was assessed in accordance with the *Environmental Protection (Noise) Regulations 1997*;
- Vibration was assessed based on Australian Standards, focused on human comfort response;
- The findings are based on a potential maximum operational time between 5:30am and 10:00pm. While the report measures to 10:00pm, the applicant confirmed that the closing time would remain at 8:00pm Monday – Friday, as per the previous approval and that they are not proposing to extend the closing time Monday – Friday. The application also seeks approval for a closing time of 5:00pm on Saturdays;
- Noise and vibration from the site were tested to the nearest commercial premises, being No. 301 Fitzgerald Street, West Perth. Testing was completed from inside the office at this property. This property was assessed against the applicable criteria for noise received at a commercial premise under the *Environmental Protection (Noise) Regulations 1997* on the basis that it currently operates as an office and is located within the Commercial zone under LPS2;
- Noise and vibration from the site were not tested to the nearest residential property at No. 23 Eden Street, West Perth as indoor access was not granted by the landowners. Measurements could only be taken from outside the premises which do not provide accurate results. The indoor residential prediction figures have instead been estimated based on theoretical models; and
- Testing involved over 50 measurements across the gym that included a range of lift-and-drop scenarios that may occur in a typical cross fit class at the subject premises. The test caters for a range of scenarios of vibration and structure-borne noise generation from the premises. Weights chosen for testing were based on reasonable assessment scenarios. Specifically, a maximum of 60 kilograms was tested on the basis that this is the most reasonable worst-case scenario, accounting for most weight drops. The applicant's Acoustic and Vibration Consultant advised that 60 kilograms was deemed to be an appropriate measure for the following reasons:
 - The gym is not specialised in high-performance/Olympic athletes. Based on the typical function of the gym and its membership base, the 60-kilogram weight was chosen as it represents the weight used by the high-average of members. Advice from the Applicant affirmed that most of the membership base would lift a maximum of 60 kilograms overhead with the majority lifting 35 - 50 kilograms above head. The Applicant advised that only 2 percent of the membership base, which currently consists of 47 people' would lift more than 60 kilograms above head;
 - 100 kilograms is not a reasonable measure for 'worst-case typical' and would more represent 'absolute worst-case'. This is because only 2 percent of the membership one of the assessment tests was lifting and dropping the weight from overhead in 50 different areas across the gym floor. This testing would not be physically possible to conduct;
 - If a 100 kilogram bar was used, this would result in a 3 dB increase in vibration levels. The recommended alternative flooring product would be suitable to attenuate this increase; and
 - Atypical cases like 100 kilograms (or over) weight drops could be tested afterwards and see if they would require some extra management (extra padding stations for extreme weights is typical at gyms). This becomes more a case for management rather than engineering control.

The key findings of the assessment regarding noise and vibration impacts are as follows:

- The report identified ground-borne vibration and regenerated noise as the principal potential cause of annoyance to the neighbouring properties, as well as some residual airborne components. This is broken down below.

Ground-borne noise refers to noise that is first transmitted to the ground as vibration, which then travels through the ground into foundations of nearby buildings. This causes vibration in the building that

can be felt by the people in it. Audible sound waves may also be produced by the walls, floor and ceiling by their vibration coupling into air. This type of noise, also termed regenerated noise, is characterised by a rumbly character.

Airborne noise is defined as any sound that is transmitted by the air, like music or speech.

With regards to vibration:

- Measurements and assessments found that vibration itself does not necessarily represent a significant source of annoyance to adjoining properties;
- A combination of airborne and vibration-induced regenerated noise does produce a loud impulsive effect at internal locations, which are above recommended standards;

With regards to noise:

- Assessment found regenerated noise levels to the residential premises may exceed the Assigned Levels within the *Environmental Protection (Noise) Regulations 1997* by 15dB based on the current site conditions;
 - To the commercial premises, measurements showed that regenerated noise is at high risk of triggering annoyance and airborne noise is found to be dominant. It determined that airborne noise should be reduced by 4dB; and
- The existing rubber flooring that is 10 millimetres thick and sits over a concrete slab does not perform sufficiently to mitigate impacts of vibration and airborne noise to nearby properties. This suggests the flooring should be replaced with a high performing product to achieve reasonable levels of vibration control and provide reductions in airborne emissions.

The Noise and Vibration Assessment Report advises that without rectifying the existing floor covering to minimise dominating impact from vibration / structure borne noise, it is not possible to determine the real contribution to airborne noise. The Report advises that once vibration is appropriately treated from the site, assessment of airborne noise would be possible and subsequent treatments of 'paths of travel' of sound could be attenuated to a point that received noise would comply with the *Environmental Protection (Noise) Regulations 1997*.

Based on these findings, the Noise and Vibration Assessment Report provides the following recommendations to reduce building vibration-induced noise at adjoining properties:

1. Replacement of the existing rubber flooring with an alternative flooring solution. This is required to be provided as per the specifications detailed within the Noise and Vibration Assessment Report;
2. After confirmation that the floor has been installed as recommended, conduct detailed airborne noise measurements, and identify the 'weakest paths of noise breakout' such as through gaps in walls, windows, or doors. This testing should inform the following:
 - Whether doors and windows need additional treatment or replacement to provide sufficient noise attenuation; and
 - Whether mechanical equipment needs to be changed, replaced, or operated in a certain manner.

The additional acoustic testing would then confirm what, if any, additional sound attenuation measures would be required to achieve compliance with the assigned levels of the *Environmental Protection (Noise) Regulations 1997* for all hours of operation. The Noise and Vibration Report also includes and action to measure noise and vibration internally at No. 23 Eden Street. This would be subject to the landowners consent being provided;

3. The provision of a Noise and Vibration Management Plan which covers the following matters:
 - (a) Before 7:00am and after 7:00pm patron access should be limited through the rear doors;
 - (b) Operate with the rear doors (including the roller door and access hinged door) always closed;
 - (c) Complete internal acoustic testing at No. 23 Eden Street West Perth; and
 - (d) Any further operation requirements identified following the additional acoustic testing undertaken following installation of flooring (as per dot point number 2).

Administration Comments

Following the submission of the Noise and Vibration Assessment Report, the application is now consistent with the Sound Attenuation Policy.

The Noise and Vibration Assessment Report found that the re-generated noise from the gym may exceed the Assigned Levels within the *Environmental Protection (Noise) Regulations 1997* by a maximum of 15dB based on the current site conditions. The new flooring to be installed, as recommended by the Noise and Vibration Assessment Report, would reduce noise levels by 15dB LaMax for a typical weight drop (maximum 60kg weight). Based on this recommendation, noise levels from these are expected to comply with the relevant assigned noise levels under the *Environmental Protection (Noise) Regulations 1997* following the installation of new flooring. Further testing following installation would be needed to confirm this.

While the Noise and Vibration Assessment Report cannot confirm that airborne noise levels generated from the premises would comply with the relevant assigned noise levels under the *Environmental Protection (Noise) Regulations 1997* following the installation of new flooring, it does provide several recommendations that would ensure the assigned noise levels could be met.

Recommended Condition 8 provides steps the applicant must follow before the new operating hours and increased patron numbers could commence. Satisfaction of Condition 8 would ensure that noise levels generated from the premises would comply with the relevant assigned noise levels under the *Environmental Protection (Noise) Regulations 1997* and vibration levels should be within Australian Standard AS2670.2-1990 – Evaluation of human exposure to whole-body vibration, for the previously approved operating hours as well as the additional operating hours proposed.

The steps of Condition 8 are as follows:

1. To implement the new flooring as recommended by the Noise and Vibration Assessment Report;
2. Provide certification from an acoustic consultation that the new flooring has been installed in accordance with the recommendations of the Noise and Vibration Assessment Report;
3. Following the installation of new flooring, an Acoustic Consultant to conduct detailed airborne noise measurements to ascertain whether actual noise emissions from activities at the gym exceed the assigned levels under the *Environmental Protection (Noise) Regulations 1997* based on the site conditions;
4. Acoustic Consultant to then identify whether any additional measures are required to be implemented to ensure sound level emissions from the gym would not exceed the assigned levels under the *Environmental Protection (Noise) Regulations 1997*. This would be detailed within an updated Noise and Vibration Assessment Report. Noise measurement testing shall include, but is not limited to:
 - Amplified music;
 - Noise from coach directions;
 - All weight drop scenarios;
 - Mechanical plant and equipment; and
 - Testing of a class with 20 patrons.
5. Once the updated Noise and Vibration Assessment Report has been prepared by the Acoustic Consultant, a copy is required to be provided to the City. This is to ensure the City is aware of any additional building upgrades or mitigation measures needed;
6. Applicant to prepare and submit a Noise and Vibration Management Plan to the City which incorporates all measures specified in the updated Noise and Vibration Assessment Report, and which also covers the following:
 - (a) All mitigation measures required to ensure noise emissions from the gym do not exceed the assigned levels under the *Environmental Protection (Noise) Regulations 1997* for all operating hours;
 - (b) States that the roller door and rear hinged access door between the building and Eden Street are to be fully closed during all operating hours:

- This is a direct recommendation from the current Noise and Vibration Assessment Report; and
- (c) States that all patron access and egress before 7:00am shall be from Fitzgerald Street only:
 - The current Noise and Vibration Assessment Report recommends that access from Eden Street should be *limited* before 7:00am. This requirement conflicts with subpoint 6(b) and provides uncertainty for surrounding residents, the operator and for any potential future compliance investigation should a complaint be received. Based on the need for certainty in conditions and considering neighbour concerns, it is appropriate to remove any ambiguity and ensure that *no* access to-or-from the gym is permitted from Eden Street during operating hours;
- (d) A procedure that details how the operator would deal with any complaints and breaches to the Noise and Vibration Management Report.

As noted earlier, the Noise and Vibration Assessment Report tested the vibration levels from a 60 kilogram weight being dropped. While not tested, the applicants acoustic and vibration consultant advised that 100 kilogram weight drops would be suitably attenuated through the recommended flooring treatment. To ensure maximum weights are tested for, Administration has included a requirement for all drop scenarios to be tested through the updated Noise and Vibration Assessment Report as part of recommended Condition 8.2(b).

Recommended Condition 8.5 requires that the proposed additional operating hours of 5:30am to 6:00am and 9:00am to 5:00pm Monday to Friday and 12:00pm to 5:00pm Saturday as well as the increase of patron numbers cannot commence until all recommended measures of the current and updated Noise and Vibration Assessment Report have been implemented in full and verified by an acoustic consultant. Condition 8.5 also requires the gym to operate in accordance with the assumptions, recommendations and measures of the Noise and Vibration Management Plan as prepared in accordance with Condition 8.4.

Recommended amended Condition 4 also confirms that the gym could only operate in accordance with the previously approved operating hours and previously approved patron numbers until all recommendations of the current and amended Noise and Vibration Assessment Report and until the Noise and Vibration Management Plan have been implemented as per Condition 8.

The requirement for the applicant to comply with Condition 8 removes all risk that the proposed operating hours and patron numbers could commence without modifications being made to the building and new operational requirements put in place to ensure the gym would comply with the relevant assigned noise levels under the *Environmental Protection (Noise) Regulations 1997*.

Satisfaction of Condition 8 confirms that all recommended building upgrades and mitigation measures when implemented, as recommended by an acoustic consultant, would be effective in protecting the amenity of occupants in the surrounding properties from the impacts of vibration and noise and that they would achieve compliance with the assigned levels of the *Environmental Protection (Noise) Regulations 1997* and relevant standards for vibration acceptability for all hours of operation.

The Noise and Vibration Assessment Report and future Noise and Vibration Management Plan provides assurance to both the City and neighbouring properties that the mitigation measures implemented would be effective in mitigating the impact of noise and vibration to not adversely impact the amenity and comfort of surrounding properties.

If the application were approved, Administration would provide notifications to adjoining owners and occupiers to ensure they are aware of when testing would occur as well as when the additional operating hours would commence.

An advice note has also been recommended regarding the need for the operation to have ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*. The operation is always required to comply with all aspects of the *Environmental Protection (Noise) Regulations 1997*, irrespective of what conditions are imposed on the development approval.

Should the City receive a complaint regarding unreasonable noise from the venue, the City's Authorised Officers would investigate the matter against the provisions of the *Environmental Protection (Noise) Regulations 1997*. A graduated and proportionate response would be taken when considering enforcement action. A condition has been recommended requiring a review of the Noise and Vibration Management Plan to allow updates for any breaches or minor improvements to operation.

The Noise and Vibration Assessment Report recommends internal noise testing be undertaken within the residential property of No. 23 Eden Street West Perth to provide accurate results. The landowners of this property have refused noise testing to be undertaken from inside the property on several occasions. Instead of recommending this requirement as a condition of development approval, an advice note has been recommended that the Acoustic Consultant request that noise testing be completed from the inside of the property at No. 23 Eden Street following the installation of flooring at the gym. This is because it is not reasonable for the commencement of new operating hours and satisfaction of conditions of development approval to be potentially held up or restricted by a third party in not allowing internal noise testing to be undertaken. There is no risk in this being provided as an advice note as the current Noise and Vibration Assessment Report assesses impacts to this property through measurements taken from outside the dwelling (in the driveway) and as the indoor residential prediction figures are and can be estimated based on theoretical models.

As highlighted earlier in the report, changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* came into effect in February 2021. The changes included the removal for the need to obtain development approval for certain land uses, including gyms. These land use exemptions do not apply to the current proposal as it is an amendment to a previous development approval. The gym would be exempt from requiring development approval if there was not a previous approval and the gym was being introduced as a new use at the subject site. This is relevant when considering the principles of orderly and proper planning in the consideration and determination of the application.

The proposed amendment to the approval is supported, subject to the recommended conditions relating to the Noise and Vibration Assessment Report and Noise and Vibration Management Plan.

Consideration of Similar Facilities

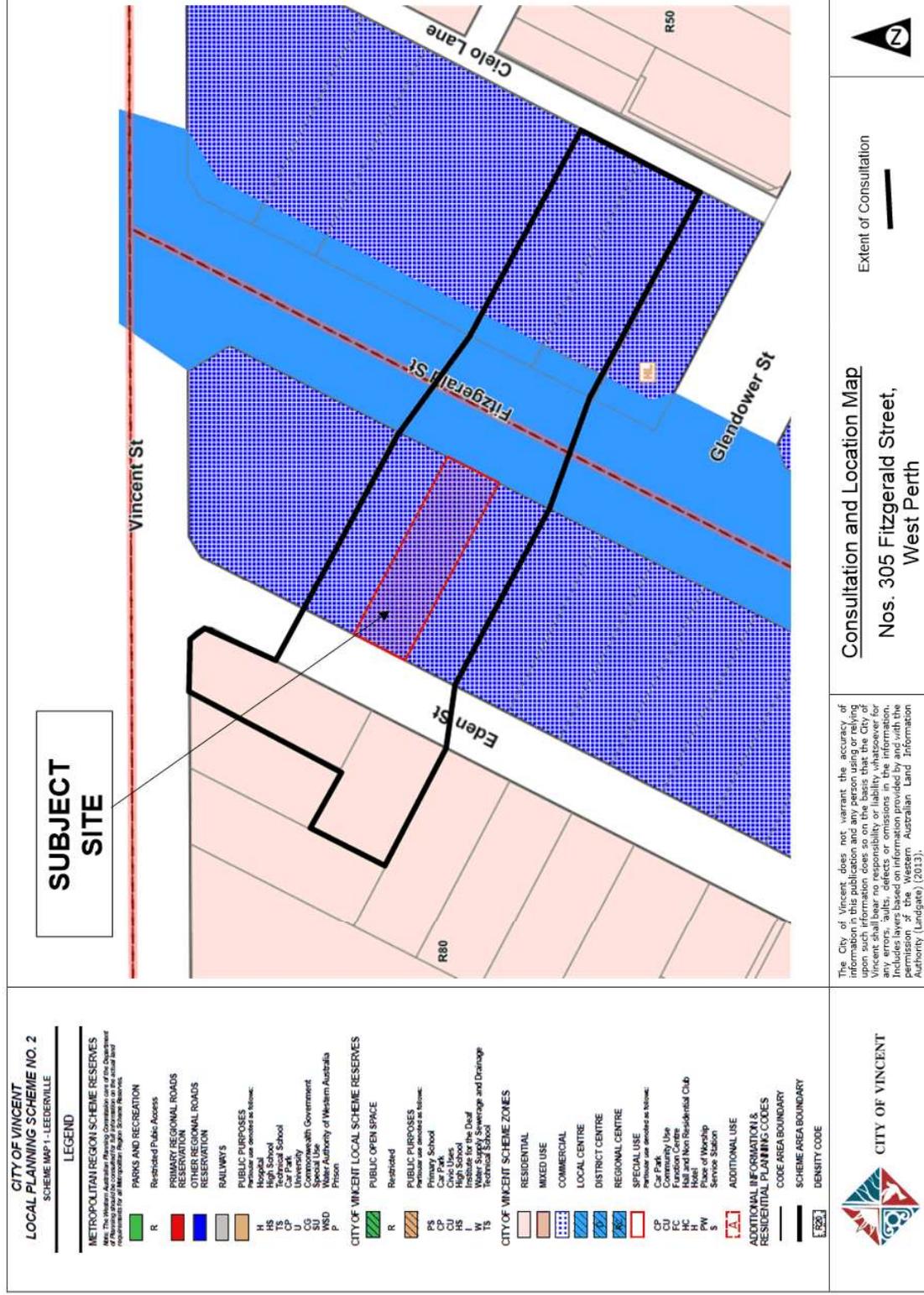
Administration reviewed other gyms approved in the City that operate with similar activities (CrossFit) to determine whether the noise mitigation measures for this proposal would be comparable.

These other gyms were supported with acoustic reports that provided recommended measures to mitigate the impact of noise to adjoining properties.

All acoustic reports for these other gyms provided upfront recommendations and did not require further testing following some initial changes being made.

The mitigation measures recommended were all site specific but had similarities to those recommended under the Noise and Vibration Assessment Report regarding the installation of flooring and requiring doors and windows to be closed during operation.

While the findings of the Noise and Vibration Assessment Report are comparable to those of similar facilities, the process of implementing the measures is the key difference between the subject proposal and other facilities. As recommended by the Acoustic Consultant, this is because additional testing is required following installation of flooring to determine whether additional measures are needed.





CITY OF VINCENT

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No. 305 Fitzgerald Street,
West Perth



Chief Executive Officer
City of Vincent
PO Box 82
LEEDERVILLE WA 6902

mail@vincent.wa.gov.au

Application for Retrospective Development Approval – Fibre Active (305 Fitzgerald St, West Perth)

Please find attached an application for retrospective development approval to help our community fitness operation continue to contribute to our community and recover from the impacts of COVID-19.

Fibre Active is a family owned business run by Bjorn and Jess. It is focused on the health and well-being of its community members. In addition to providing the local community a facility to get fit, Fibre's mantra extends to social, and environmental well-being.

Many of our members love to train as a mental health break during their busy lives and many of us get on board with healthy living initiatives which have a broader effect improving our health and the environment by carefully choosing the foods we eat.

Being a small facility, we are in tune with our members and the community and do our best to fit in locally. We love to help people reach their goals at all levels and always keep our neighbours in mind in trying to minimise any impact we may have.

In the community, we like to hang out at local coffee shops after classes and enjoy organising social events in nearby locales.

We welcome all feedback from the City of Vincent and the community on how we can continue to positively contribute to our diverse local community.

Our development application is consistent with the City's planning framework and we are available to answer any questions if required.

Yours sincerely

Bjorn and Jess

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

Application to Retrospectively Amend Existing Development Approval

Retrospective development approval is sought to amend the existing approval for number 305 Fitzgerald Street, West Perth (Lot 4 on Deposited Plan 1602) issued by the City of Vincent on 04 June 2014 (Reference Number: PRO5938 5.2014.124.1) as follows.

1. Delete Condition 2 relating to the maximum number of employees.
2. Amend Condition 3 relating to the maximum number of clients to allow up to 20 clients.
3. Amend Condition 4 relating to the hours of operation to:
 - a. Allow the premises to operate from 05:30 to 20:00 Monday to Friday;
 - b. Allow the premises to operate from 07:00 to 17:00 on Saturday; and
 - c. Remove the requirement to have a 15-minute interval between classes.
4. Seek development approval for one toilet and end of trip facility.
5. Seek development approval for three signs on the Fitzgerald Street elevation:
 - a. One wall sign; and
 - b. Two awning signs.

The application proposes to install an additional layer of rubber mats which have 15mm thickness on top of the existing rubber mats to assist in vibration and noise attenuation.

Background

Subject Site and Context

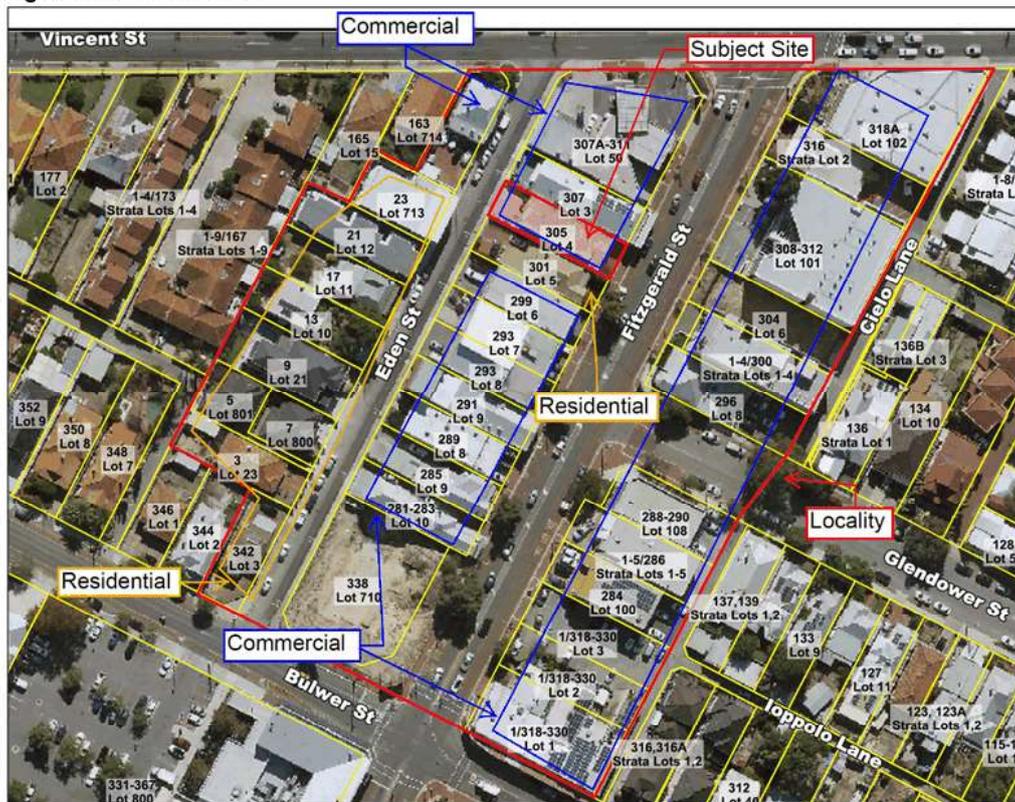
The subject site is located at number 305 Fitzgerald Street, West Perth (Lot 4 on Deposited Plan 1602). The lot area is 355m² and the site is improved with an existing warehouse which has been converted into a contemporary fitness premises. The warehouse is approximately 219m² in size and has a net lettable area of approximately 205m².

For this application, the locality is described as lots fronting Fitzgerald Street (between Vincent and Bulwer Streets) and lots fronting Eden Street (see **Figure 1**).

The subject site is bounded by Fitzgerald Street to the east and Eden Street to the west which provides vehicular access. The site abuts a shop/cafe to the north and a single dwelling to the south which has recently been converted from an office.

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

Figure 1 – Context Plan



Previous Approvals

The subject site was approved as a Recreation Facility by the City of Vincent Council at its 26 March 2013 Ordinary Council Meeting and an extract of the minutes is provided at **Attachment ***. An amended approval was issued by the City on 04 June 2014.

The subject site has been operating as a community fitness facility since approval and in April 2019, the facility was rebranded to Fibre Active.

Local Planning Strategy

The amended development application is consistent with the objectives of the City of Vincent Local Planning Strategy as follows.

Table 1 – Local Planning Strategy Objectives

| |
|---|
| <i>To promote and safeguard the health, safety and convenience and general welfare of the inhabitants of the City.</i> |
| The recreation facility provides an avenue for residents to improve physical and mental wellbeing through a community focussed and small-scale fitness operation. |
| <i>To recognise the historical development of the municipality and its contribution to the identity of the City's residential and commercial centres and associated sense of place</i> |

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

| |
|--|
| The proposal maintains the existing warehouse and scale of development on Fitzgerald Street. |
| <i>To co-ordinate and ensure that development is carried out in an efficient and sustainable responsible manner that integrates consideration of economic, social and environmental goals and reduces the City's carbon footprint.</i> |
| The proposal seeks minimal changes to the building. A new shower is installed to assist with people commuting to and from work and the facility does not have air conditioning systems which require significant energy. |
| The health and well being of local members improve through training activities and local businesses are stimulated as active community members generally support local shops and businesses. |
| <i>Improve access into and around the district, and ensure safe and convenient movement of people, including pedestrians, cyclists, public transport users and motorists.</i> |
| The proposal includes a variety of methods for members to access the facility. Its small-scale community focus results in localised transport. |
| <i>To assist employment and economic growth by ensuring suitable planning provisions to support a variety retail, commercial, entertainment and tourism developments in key locations, to provide employment self-sufficiency and self-containment.</i> |
| Fibre Active is a small business which is family owned and operated. Members and coaches live and work in the local community and contribute to the local economic market. |

Local Planning Scheme No. 2

Land Use

The applicable land use for the subject application is *Recreation – Private* under the City of Vincent Local Planning Scheme No. 2 (LPS 2) as follows.

recreation – private means premises that are – (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge

The existing approval issued in June 2014 described the premises as *Recreational Facilities* which was the appropriate land use nomenclature in former Town Planning Scheme No. 1

recreational facilities means any land or building or part of a building used for: (a) public tennis courts; (b) public or private swimming pools; (c) squash courts or centres; (d) basketball centres; (e) gymnasias; (f) ice and roller skating rinks; (g) physical health studios; and (h) any other similar purpose; in respect of which a charge is made for the use thereof

The use of the premises is not proposed to change and remains consistent with the existing approved use.

Zoning

The subject site is zoned *Commercial* under LPS 2. Surrounding lots in the locality which have access to Fitzgerald Street are also zoned *Commercial*. The wider locality is characterised by medium to high density residential zoned land.

Fitzgerald and Bulwer streets are reserved as *Other Regional Roads* under the *Metropolitan Region Scheme* and are designated State Route 56 and 72, respectively. Other Regional

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

Roads provide a regional road network to accommodate current and future transport needs on roads and are designed to cater for significant traffic movement.

Figure 2 – Zoning Plan

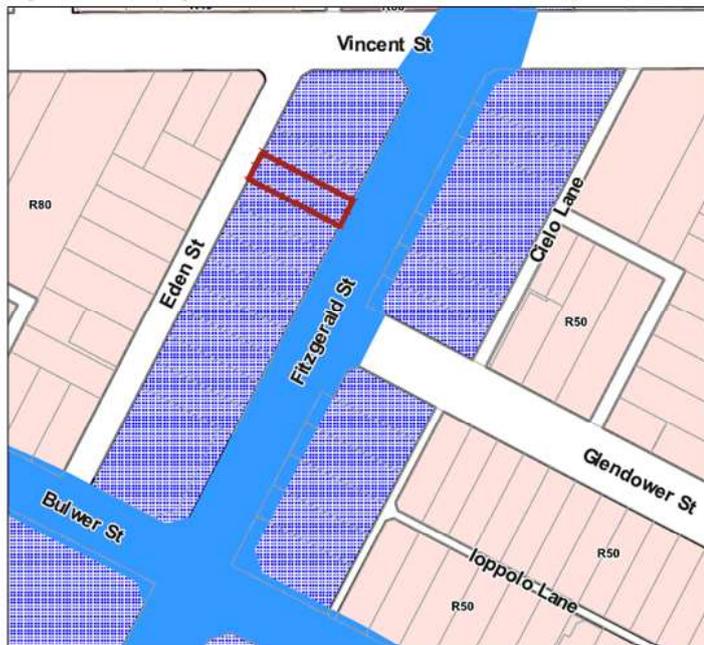


Table 2 - Local Planning Scheme 2 objectives for the Commercial zone

| |
|--|
| <p>To facilitate a wide range of compatible commercial uses that support sustainable economic development within the City.</p> |
| <p>A recreation-private facility fits within the commercial context of the locality. The facility provides a positive contribution to nearby hospitality businesses as members regular frequent local shops around classes.</p> |
| <p>To ensure development design incorporates sustainability principles, with particular regard to waste management and recycling and including but not limited to solar passive design, energy efficiency and water conservation.</p> |
| <p>The works component of the development installed a shower which caters to members to change before/after a workout.</p> <p>The facility does not have air conditioning and focuses on fans and the hydration of members to stay cool, and the workouts themselves are sufficient in warming up members during cooler weather.</p> |
| <p>To maintain compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.</p> |
| <p>The built form of the building is not proposed to change and is representative of the varied commercial development in the area.</p> <p>The signage proposed is generally relates to the facility and is generally consistent with signage for a recreation facility.</p> |
| <p>To ensure that development is not detrimental to the amenity of adjoining owners</p> |

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

or residential properties in the locality.

The amendments proposed do not have additional impact on the amenity of the surrounding locality during day-time hours. Measures are proposed to limit any impact on surrounding residential land uses in the small time increase sought from 05:30-06:00 on weekday mornings.

Car and Bicycle Parking

Parking consideration is to be given due regard with Local Planning Policy 7.7.1 – *Non-Residential Development Parking Requirements* (LPP 7.7.1).

Table 1 of LPP 7.7.1 sets out the car parking requirements. The following considerations are applicable:

- The subject site is within an Activity Corridor as defined in LPP 7.7.1.
- The proposed land use is *Recreation – Private*.
- The total number of persons is 22 being made up of
 - The maximum number of clients for any one class is 20.
 - The maximum number of trainers for any one class is two.

The amount of parking required is detailed below.

- Short Term Bicycle Parking – 1 space required
 - 22 persons x 0.019 = 0.418.
- Long Term Bicycle Parking – 1 space required
 - 22 persons x 0.042 = 0.924.
- Car parking – 5 spaces required
 - 22 persons x 0.22 = 4.84.

The subject site provides for three parking bays accessed from Eden Street and 4 bicycle parking bays accessed from Fitzgerald Street. A single unisex shower is provided as appropriate end of trip facilities and the reception desk provides for a secure place for staff members to store personal belongings. Storage spaces are provided in the facility for members to store personal belongings.

This leaves a shortfall of 2 car parking bays which has been addressed in the original approval considered by Council in March 2013.

The original approval by Council considered the proposal to have a 2.058 car bay shortfall (5.058 required and 3 provided) and imposed a cash-in-lieu condition accordingly requiring payment of \$7,203. This amount has been provided to the City who will have expended the funds to improve parking in the locality.

Class Limitation

Contemporary business requires flexibility and adaptability to effectively operate. Planning is must carefully consider these measures against the strategic intent of an area and the amenity of locality.

The current approval limits classes on Monday through to Friday between 06:00-09:00 and 17:00-20:00 and on Saturday between 07:00-12:00.

The amended application seeks to allow class times between:

05:30-20:00 Monday to Friday

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

07:00-17:00 on Saturday

Class times will vary and change according to the demands of the market and demographics.*

Hours of operations will include administration time, class planning, class preparation, consultations, workout and movement testing and cleaning. These are essential in any fitness business operations.*

(* Updated 23 November 2021)

The operation of a Recreation – Private facility is consistent with LPS 2 and the City's Local Planning Strategy with key matters addressed below.

Access to classes

The premises provided the required cash-in-lieu contribution for parking. Notwithstanding, the additional classes retain the same limit on persons and additional parking is not required.

A parking management plan is provided at **Attachment *** and access to classes is summarised in **Table 3**.

Table 3 – Summary of access to classes

| Time (current schedule) | Description | Access |
|--|---|---|
| Morning 05:30-06:30 06:30-07:30 | Morning classes cater for members who schedule exercise before their working day. | While many members live close and walk/cycle to the gym, parking is generally available in the locality and parking demand is not at peak. On street parking is available on Fitzgerald Street, Eden Street, Bulwer Street, Glendower Street and other local streets. |

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

| | | |
|---|---|---|
| <p>Mid-Morning 09:00-10:00</p> | <p>Mid-morning classes cater for those with flexibility in the day and/or may be on holidays.</p> | <p>These classes have lower attendance and appropriate parking can generally be provided on site and on surrounding local streets.</p> |
| <p>Midday 13:00-14:00</p> | <p>Lunch time classes for nearby workers as a healthy break from the working day.</p> | <p>Members walk over from nearby businesses. Limited to no parking for members is required and can be accommodated onsite.</p> |
| <p>Evening 17:30-18:30 18:30-19:30</p> | <p>Evening classes for members who exercise after work.</p> | <p>Evening classes generally have the highest amount of people using alternative modes of transport (walking/cycling/public transport) to attend classes. At this time of day, local businesses have generally finished work and there is less demand for on street parking.</p> <p>There is also less demand for parking around Hyde Park as daytime visitors return home.</p> <p>Sufficient parking is provided in surrounding streets as detailed above.</p> |

Interval between classes

The existing approval requires an interval between classes which is understood to be based on car parking availability. This condition is not considered to be a valid planning condition and is requested to be deleted as follows.

A valid planning condition must:

- be imposed for a planning purpose;
- fairly and reasonably relate to the development for which permission is given; and
- be reasonable, that is, be a condition which a reasonable planning authority, properly advised, might impose.

Considering the above, the condition is not considered valid and applicable for the following reasons

- Purpose
 - The condition is not referenced to any relevant planning policy requiring an interval in land use activities for car parking change over.
 - An interval may serve the purpose of freeing up to three car parking bays on-site, however, as demonstrated in the parking management plan, sufficient parking in the locality exists.
 - The condition does not consider alternative modes of access and transport.
- Relevance
 - It is not considered there is a sufficient nexus between the relatively small-scale operation of the premises and availability of parking in the locality.
 - In general, the availability of parking is only usually impacted with large scale events at surrounding locations such as Hyde Park and Dorrien Gardens.
- Reasonableness

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

- As sufficient parking exists, the interval period is considered unreasonable in the context of class scheduling and operation of the premises.

Car parking is generally provided to operate at near capacity, with users having an expectation that it may not be readily available. For example, members understand the time required to commute to the facility and plan appropriately.

Classes are not open to the public and must be reserved online, this provides certainty to the numbers attending a class and will not result in an unprecedented amount of people attending the facility. Should members of the public seek to join, this is normally by appointment with a coach.

In considering other land uses and the inner-city nature of the locality, it is not appropriate to impose time restrictions on operations. For example, it would not be appropriate to limit the sales of a shop nearby to certain intervals to allowing car parking to regenerate.

Noise Attenuation

The City's Local Planning Policy 7.5.21 – *Sound Attenuation* includes guidelines for the preparation of acoustic reports in support of applications for development approval.

~~The preparation of an acoustic report is not required in this instance as follows.~~

- ~~1. The locality includes a mix of commercial and residential land uses near significant roads.~~
- ~~2. The proposed change in the operating schedule to allow daytime classes does not unduly impact on the amenity for commercial and residential land uses.~~
- ~~3. The change to allow classes to commence at 05:30 will have additional measures to minimise any noise as detailed earlier in this application.~~
- ~~4. The nearest residential land uses have been developed or converted to residential after the commencement of the operation of the recreation facility and are the agent of change in this instance. Such developments will have been required to be constructed to the appropriate Australian Standard.~~
- ~~5. It is not unreasonable to consider some level of noise in a commercial locality, and the recreation facility has arguably less impact on amenity compared to other commercial land uses which are permissible and which may rely on a high turnover of customers and delivery of goods.~~
- ~~6. The findings of an acoustic report are unlikely able to be implemented at a reasonable cost given the age of the building and of those in the locality.~~
- ~~7. The recreation facility has not been found to exceed relevant noise levels.~~

~~In considering the above, an Acoustic Report is not required for the subject application.~~

An acoustic report has been prepared for development approval.

Please refer to the **“Fibre Active Gym – Noise and Vibration Assessment” Report 10.00158R-01 prepared on 08/07/2021 by Acoustics Consultants Australia.**

A copy of this can be found attached to the development application, which also includes details of the Assessment that was conducted and also the Recommendations of the Acoustic Consultant.

Note: the Assessments were done with limited access to properties, as parties who are against the application were not forthcoming in allowing access into their properties for

Application for Retrospective Development Approval 305 Fitzgerald Street, WEST PERTH

proper testing. Ample notice was given and permission requested but was rejected. The consultants proceeded to provide an assessment with the limited access that was given.

(* Updated 23 November 2021)

Signage

The City's Local Planning Policy 7.5.2 – *Signs and Advertising* (LPP 7.5.2) includes the considerations for signage.

The application proposes retrospective approval for three signs including one wall sign and two awning signs on the Fitzgerald Street wall elevation (**Table 4**). All signs include advertising for the subject premises.

The Fitzgerald Street wall elevation is approximately 59m² in size and is set back 5.2m from the street boundary.

Table 4 – Signage

| Sign | Size (dimensions) | Percent of wall (59m²) |
|------------------|---------------------------------|--|
| Wall sign | 3.6m ² (1.2m x 3m) | 6.1% |
| Awning 1 | 2.4m ² (0.9m x 2.7m) | 4.06% |
| Awning 2 | 2.4m ² (0.9m x 2.7m) | 4.06% |
| Total | 8.4m² | 14.2% |

The wall sign has a black background and measurement is taken from the full outline of the sign.

The two awning signs are minimalistic in nature, have a predominant white background which matches the wall facia and have simple black text. The sign measurements in Table 4 include the full dimensions of the awning signs and should the measurements be taken from the black text; the total signage will not exceed 10% of the total area of the building wall.

The signage is consistent with the City's LPP 7.5.2 and can be supported.

APPENDIX 2 – PARKING MANAGEMENT PLAN FRAMEWORK

| Owner/Applicant Details | |
|--------------------------------|---|
| Name: | Bjorn Voon |
| Address: | <u>305 Fitzgerald Street</u> <u>West Perth, 6004</u> |
| Phone: | Redacted for privacy reasons |
| Email: | Redacted for privacy reasons |
| Applicant Signature: | <i>Bjorn Voon</i> |

| Property Details | |
|-------------------------|---|
| Lot Number: | <u>305 Fitzgerald Street</u> <u>West Perth, 6004</u> |
| Address: | <u>305 Fitzgerald Street</u> <u>West Perth, 6004</u> |

Parking Allocation:

The following tables outline the parking available for the different users of this development application.

| Parking Allocation | |
|--|---|
| Total Number Car Parking Spaces: | 3 |
| Total Number Short Term Bicycle Parking Spaces: | 4 |

Application for Parking Management Plan

| Development Type | Development Users | Parking Allocation | | | |
|--|-------------------|--------------------------|----------------|--------------------|------------------|
| | | Type / Duration | No. Car spaces | No. Bicycle Spaces | No. Other Spaces |
| Short term accommodation and residence | No Staff | No Employees (> 3 hours) | 1 | 1 | - |
| | Customers | Visitor | 2 | 3 | - |
| | Other | Residence | - | - | - |
| | Other | Disabled | - | - | - |

Alternative Transport:

The following table outlines the alternative transport options available to users of this development application.

| Transport Option | Type & Level of Service |
|-------------------------|---|
| Public Transport | |
| Train | |
| Bus | There are bus stops in both directions on Fitzgerald Street. Bus numbers 60, 960 and 990 stop outside the gym and across the road. All buses are around 10 minutes apart on weekdays. |
| Paths | |
| Paths | There are good accessible 5 foot walkways that are around the area. |
| Facilities | |
| Cycling | |
| Paths | City of Vincent is full of wide walk ways. |

Applicants Parking Management Plan

| | |
|------------------------|---|
| Facilities | 4 A bicycle rack has been installed in front of the venue and allows for 4 bicycles to be secured on. |
| Secure Bicycle Parking | Nil |
| Lockers | 16 Cube Ikea Cubby hole cabinets has been included in the amenities of the building. These are enough for a wallet/mobile phone to be placed in one of the lockers. |
| Showers/Change Room | 1 |



Figure 1: Designated Cycle Racks

Applicants Parking Management Plan

Public Parking:

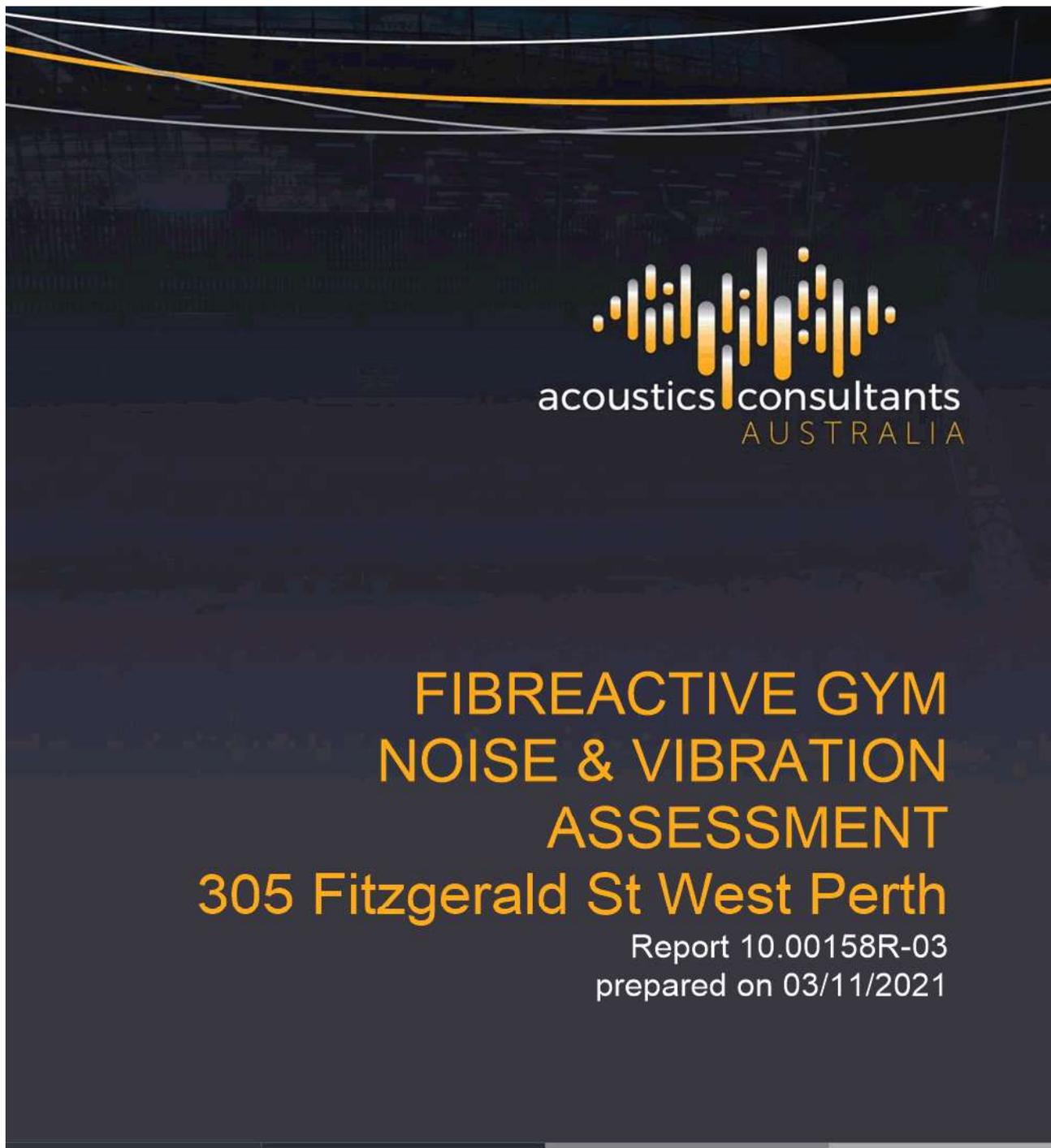
Identify the number of on street and off street public parking in the vicinity in the following table.

| | No. Marked Spaces | Location | Parking Restrictions |
|--------------------|-------------------|--|--|
| On Street Parking | 8 | Fitzgerald Street (front of the gym) | No Stopping 4-6pm - Mon – Fri Mix of 1P and 3P (No signs) |
| Off Street Parking | 76 15 | Glendower Street (Half of Street before the Roundabout) Eden Street | Mix of 1P and 3P (No signs) |

Parking Management Strategies

The parking management plan together with the strategies listed below are provided to assist guests in understanding the frequent modes of transport that are available in the Perth city and suburbs and for parking of vehicles and cycles on the subject property.:

1. The owner will be responsible for management, operation and maintenance of parking. Attached together with this is our own Parking Management Plan that has been communicated to Coaches, current members and also new members.
2. Car bays will be numbered and parking management and allocation will be advised to guests via on line booking and on check in.
3. There are no staff/employees. Owner and contractors will carry out cleaning and maintenance.
4. The parking management plan and instructions on check-in will be used to ensure efficient use of parking facilities; and
5. Bicycle, public transport and pedestrian modes of transport will be highly promoted to guests. The subject property is within close proximity to the Perth City and to Northbridge.





FIBREACTIVE GYM
NOISE & VIBRATION ASSESSMENT

REPORT PREPARED BY

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BASIS OF REPORT

This report has been prepared by **Acoustics Consultants Australia (ACA)** with all reasonable skill, care and diligence, and taking account of the timescale and resources allocated to it by agreement with the Client. Information reported herein is based on the interpretation of data collected, which has been accepted in good faith as being accurate and valid.

This report is for the exclusive use of the Client. No warranties or guarantees are expressed or should be inferred by any third parties. This report may not be relied upon by other parties without written consent from ACA. ACA disclaims any responsibility to the Client and others in respect of any matters outside the agreed scope of the work.

DOCUMENT CONTROL

| REFERENCE | DATE | PREPARED | REVIEWED | AUTHORISED |
|--------------|------------|-------------------|----------|-------------------|
| 10.00158R-01 | 08/07/2021 | Miguel de la Mata | | Miguel de la Mata |
| 10.00158R-02 | 12/10/2021 | Miguel de la Mata | TGD | Miguel de la Mata |
| 10.00158R-03 | 03/11/2021 | Miguel de la Mata | TGD | Miguel de la Mata |
| | | | | |
| | | | | |

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Report 10.00158R-03

1. INTRODUCTION

This report presents the findings of the acoustic assessment conducted by Acoustics Consultants Australia (ACA) for the existing Fibre Active gym located at 305 Fitzgerald St, West Perth.

Noise complaints related to the gym operations have been received by the City of Vincent (CoV) and this assessment aims at identifying the causes of the reported annoyance and provide a numeric assessment to then estimate the level of mitigation recommended.

The assessment was prepared following the requirements of the City of Vincent. Noise was assessed in accordance with the Environmental Protection (Noise) Regulations 1997 and vibration issues were addressed based on Australian Standards, focused on human comfort response.

This version of the report has been prepared after Planning Services of the CoV provided commentary on the report in August 2021. The queries from the CoV, ACA's responses to this review have been summarised in **Table 1** for reference. It is anticipated that five main actions have been flagged from this review process, which includes principally a number of items to be considered in the development of a Noise and Vibration Management Plan (NVMP).

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Table 1 CoV Review / ACA responses and actions reference Table

| Item | CoV Comment | ACA Response/Comment |
|------|--|--|
| 1 | <p>On review, it was noted that noise and vibration was only assessed from individual weight drops, and as such, may not be representative of the impact from a class. There has been no extrapolation / modelling of typical class scenarios (i.e. all activities performed in the duration of a class and how frequently these are performed, including reference to number of persons in the class). It is expected these variable criteria could affect the modelling and therefore must be presented for discussion within an updated report.</p> | <p>Vibration and noise were simultaneously measured at the nearest most sensitive receiver from 70 controlled tests of four different type of weights, within a grid of 12 points inside the gym in line with structural beams and columns that could potentially amplify structure borne vibration. This type of test would cater for every potential worst-case scenario of vibration and structure-borne noise generation from the premises.</p> <p>Additionally, ACA conducted evaluation of the condition of the existing rubber matting in the gym (i.e. controlled test with and without the existing rubber mat).</p> <p>Nonetheless, after these tests were conducted, impact from a typical class was also assessed on the 4th of June 2021, between 5pm and 6pm. The levels of vibration and noise from these were, as expected, much lower. Maximum levels of vibration during a class were recorded at a maximum event of</p> <p>$L_{V\text{RMS},1\text{sec}} = 92\text{ dB}$</p> <p>We note that measurements of the controlled tests recorded maximum $L_{V\text{RMS},1\text{sec}}$ levels between 101 dB and 114 dB. This is the reason the design of floor vibration control must be undertaken based on worst-case controlled tests.</p> <p>A gym indeed requires controlled environment testing to understand the worst-case scenario effects of vibration. During classes is a different approach, which in ACA's view, for analysis purposes, it does not help to identify critical effects and impacts.</p> |
| 2 | <p>On review, it was noted the assessment has only been considered against the L_{Amax} criteria of the Environmental Protection (Noise) Regulations 1997, with no discussion on validity of L_{A1} or L_{A10} which may be more appropriate for class conditions. This is to be updated and discussed in the report, with context to typical class environments, activities, duration of exercises / activities and mix of exercises / activities etc.</p> | <p>Section 3.2.2 (Page 14) provides discussion on the outdoor noise limits and the choice for worst-case scenario assessment. It was determined from measurements and observations that complaints are triggered by indoor noise levels felt on events when weights are dropped. A secondary issue is the airborne component from breakout noise through openings on the gym (rear roller door and windows), these will have to be managed or replaced. A Noise and Vibration should follow this assessment.</p> <p>In practice, assessment of airborne L_{10} and L_1 would not provide added value when the critical issue is the L_{max} structure-borne regenerated noise.</p> <p>Action 1: Prepare a Noise and Vibration Management Plan (NVMP) based on Section 5 of this report.</p> |

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FIBREACTIVE GYM
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| Item | CoV Comment | ACA Response/Comment |
|------|--|---|
| 3 | Confirmation required from the Acoustic Consultant that the assessment of 'weight drops' was done when weights were 'not under control' (i.e when a person was not in control of the bar or weights when dropping from each height). | The weight drop tests were conducted in a 'controlled manner'. As described in Item 1 of this table, 70 different tests included a range of weights that were dropped from the two different heights. This is further explained in Section 4.1. The Olympic bar was released to gravity and there was no guide for each drop, representing what occurs during a CrossFit class. |
| 4 | On review, it was noted the report has not provided assessment and discussion on other known activities associated with the use, including but not limited to: patrons arriving/departing, amplified music, coaches' directions etc. These are to be assessed and discussed in an updated report. | Our site observations found these events (patrons arriving/departing, amplified music, coaches' directions etc.) to be less intrusive and non-critical in comparison to the structure-borne regenerated noise. Nonetheless, this is noted and an NMP should identify these issues and limit patron access through the rear door early in the morning and after 7pm. Operations should be conducted with the roller closed. Action 2: Include the following items in the NVMP: - Before 7am and after 7pm: Limit patron access through the rear door. - Operate with the rear doors (including the roller door and access hinged door) closed at all times. |
| 5 | The report has not provided commentary on whether the roller door at the premises was open or closed for the purpose of assessment. This is to be assessed and discussed in an updated report. | The roller door was always open during all measurements conducted for the assessment. |
| 6 | The report provides a statement in Section 5. Recommendation about 'improvements to windows and doors' at the premises – however is not specific as to what action is required in order to effectively attenuate noise from the premises to achieve compliance with the Environmental Protection (Noise) Regulations 1997. Further, the report lacks commentary on other known transmission pathways including walls, ceilings and roof structure. As an identified non-compliance with the Environmental Protection (Noise) Regulations 1997 has been flagged in the report, this 'recommendation' must be more specific as to what is actually required (structural and/or operational). This is to be assessed and discussed in an updated report. | At this point in time, without rectifying the existing floor covering to minimise the dominating impact from vibration/ structure-borne noise, it is not possible to determine the real contribution of airborne noise and, therefore, not possible to be specific as to what is required. This is the reason why ACA recommended that these paths (i.e. windows, doors, roof) are to be inspected once the floor issue is rectified. We note that rectifying windows and/or doors would be necessary and the NVMP should include this. Action 3: Include the following items in the NVMP: - After confirmation that the floor has been treated as recommended, conduct detailed airborne noise measurements and identify the weakest paths of noise breakout. - Evaluate whether doors/windows may be treated or replaced in order to provide sufficient noise control. |

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| Item | CoV Comment | ACA Response/Comment |
|------|--|--|
| 7 | The report has not provided any discussion on the traffic conditions at the time of the assessment. This is to be assessed and discussed in an updated report. | <p>Traffic conditions during the noise and vibration measurements were typical of the location. This is however, not relevant to the conclusions since this had no impact on the internal measurements. The measurements had a high signal to noise ration and there was no need to correct for background/ambient noise from road traffic.</p> <p>This may be different when outdoor airborne noise emissions are assessed. Again, this would be required by the NVMP after the floor is rectified.</p> |
| 8 | The report has not assessed the existing mechanical plant not discussed in the report. This is to be assessed and discussed in an updated report. | <p>Mechanical plant was not being used and the gym operator has confirmed that this not regularly used.</p> <p>This may change if the requirement is from now to operate with the roller door closed.</p> <p>Action 4: Include the following item in the NVMP:</p> <ul style="list-style-type: none"> - After implementation of treatment to floors and considering operations with the doors/windows closed, assess the requirement for mechanical ventilation (with a mechanical engineer). - Assess noise from mechanical plant at this point. |
| 9 | There is insufficient detail of existing land uses both including and beyond the nearest noise sensitive receiver. Commentary is required as to whether (or not) other surrounding premises, other than those identified as Location A or B in the existing report, is to be provided. | <p>Figure 1 of the report has identified the nearest sensitive receivers, commercial and residential. If the noise and vibration objectives are met at these nearest receivers, then the objectives will be met at further receivers.</p> |
| 10 | On review, it was noted the report has not made reference to analysis / assessment or discussion of measurements taken from Location B (23 Eden Street). This is to be assessed (a.a) and discussed in an updated report. | <p>Access to this property was not granted by the owner. The assessment needs to include <u>internal</u> noise and vibration measurements as external measurements (See Figure 9 of the report) did not provide a real representation of the underlying issue (structure vibration regenerated noise).</p> <p>Vibration measurements were conducted on ground floor at this location; however, the impact seemed negligible. Vibration may be amplified at higher floors (the residential premises are on 1st floor).</p> <p>Action 5: Include the following item in the NVMP:</p> <ul style="list-style-type: none"> - Measure noise and vibration <u>internally</u> at 23 Eden St. After the recommended works have been conducted at the gym. - Measurements should include controlled tests and during a typical class. |

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| Item | CoV Comment | ACA Response/Comment |
|------|---|---|
| 11 | In addition to the above, it is noted that some of the factors around the minimising noise and vibration transmission from the 'use', are operational and the City highly recommends the development of a Noise Management Plan that is informed by the outcomes of an updated acoustic report, an incorporates the recommendations made within it. | Agree and noted. An NVMP should be developed and the gym operator has been informed of this. |

The methodology and standards used to conduct the assessment, as well as the numeric assessment results are presented in the following sections of this report.

Acoustic terms used in this report are defined in the Glossary of **Appendix A**.



2. BACKGROUND INFORMATION

The site is a commercial unit located within a large lot and street carpark adjacent to other commercial units. The building is located within commercial zone. There are two entries to the site, via Fitzgerald St and via Eden St (rear). **Figure 1** depicts an annotated aerial view of the site and its nearest noise sensitive receivers.

Figure 1 Site location and nearest noise sensitive receivers



The identified nearest noise sensitive receivers are:

Location A – 301 Fitzgerald St. A single storey brick property.

Location B – 23 Eden St. A two-storey brick property.

Noise and vibration emitted from the proposed premises and received at the nearest sensitive premises are to be assessed following the WA Noise Regulations (**Section 3**).

Figure 2 shows the existing internal layout, which is typical for a cross fit gymnasium.



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Figure 2 Existing site layout



The noise and vibration sources linked to the site are mainly related to weight drops undertaken during classes.

The trading hours for the site has been restricted since the noise complaints. The proposed hours of operations consider a maximum operational opening time between 5:30am to 10pm.



3. ACOUSTIC CRITERIA

3.1. Vibration Criteria

Criteria have been determined from a review of the following documents:

- German Standard DIN 4150, Part 3-1986: *Structural vibration in buildings: Effects on structures*;
- Australian Standard AS 2670.2-1990: *Evaluation of human exposure to whole-body vibration, Part 2: Continuous and Shock-induced Vibrations in Buildings (1 Hz to 80 Hz)*¹; and
- British Standard BS 6472:1992: *Guide to evaluation of human exposure to vibration in buildings (1 Hz to 80 Hz)*.

This report focusses on human comfort assessment since, from observations during the site visit and from inspection of the monitoring data; the levels of vibration are not expected to cause building damage at this monitoring location.

3.1.1. Human response to vibration levels

The vibration levels in Table 1 have been referenced from German Standard DIN 4150 Part 2 1975, which gives guidance on expected human response to vibration levels.

Table 1 Vibration levels based on velocity and human perception of motion

| Approximate Floor RMS Vibration Level (mm/s) | Peak particle velocity (PPV) (mm/s) | Typical degree of perception |
|--|-------------------------------------|------------------------------|
| 0.10 | 0.40 | Not felt |
| 0.15 | 0.60 | Threshold of perception |
| 0.35 | 1.4 | Barely noticeable |
| 1.0 | 4.0 | Noticeable |
| 2.2 | 8.8 | Easily noticeable |
| 6.0 | 24 | Strongly noticeable |
| 14 | 56 | Very strongly noticeable |

Note: These approximate vibration levels (in floors of building) are for vibration having frequency content in the range of 8 Hz to 80 Hz. PPV values are estimated on the basis of a crest factor of 4.

3.1.2. Human comfort vibration criteria

In Western Australia, assessment of vibration impacts on human comfort has historically been carried out based on Australian Standard AS 2670.2-1990, with relevant details as follows.

¹ AS 2670-1990 was withdrawn on 15 April 2014.

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Vibration levels can be expressed in terms of decibels (dB re 10^{-9} m/s). A level of 100 dB corresponds to 0.1 mm/s (rms) and a level of 120 dB corresponds to 1 mm/s (rms).

Australian Standard AS 2670.2 1990 "Evaluation of Human Exposure to Whole Body Vibration – Part 2: Continuous and Shock Induced Vibration in Buildings (1 Hz to 80 Hz)" provides criteria corresponding to 106 dB to 112 dB for residential buildings during the daytime, and reducing to 103 dB during the night-time. These criteria apply to both continuous and intermittent vibration.

3.2. Noise Criteria

Criteria have been determined from a review of the following documents:

- State requirements: Western Australia *Environmental Protection (Noise) Regulations 1997* (EPNR1997);
- Australian Standard AS/NZS 2107:2016 *Acoustics – Recommended design sound levels and reverberation times for building interiors* (AS 2107); and
- Other Australian States' Guidelines and Noise Policies such as the NSW Rail Infrastructure Noise Guideline and the QLD Transport Noise Management Code of Practice

3.2.1. Internal noise – Australian Standard 2107:2016

For internal spaces, Australian Standard 2107:2016 *Acoustics – Recommended design sound levels and reverberation times for building interiors* (AS/NZS 2107) provides recommended noise limits for specific room usages.

The following table presents recommended internal noise levels recommended for dwellings in urban areas and offices, extracted from Table 1 of AS/NZS 2107.

Table 2 AS/NZS 2107 Recommended design sound levels

| Type of occupancy | Design sound levels ($L_{Aeq,t}$ range) – dB |
|---|---|
| Houses and apartments near major roads | |
| Living areas | 35-45 |
| Sleeping areas (night-time) | 35-40 |
| Work areas | 35-45 |
| Office buildings | |
| General office areas | 40-45 |

The recommended sound levels given are not necessarily appropriate in all circumstances and may not reflect each occupant's expectations of quality; this is particularly the case when the noise content has considerable low frequency energy or when the levels do not correspond to a quasi-steady noise source (i.e. sound fluctuates by a significant range in a short period of time).

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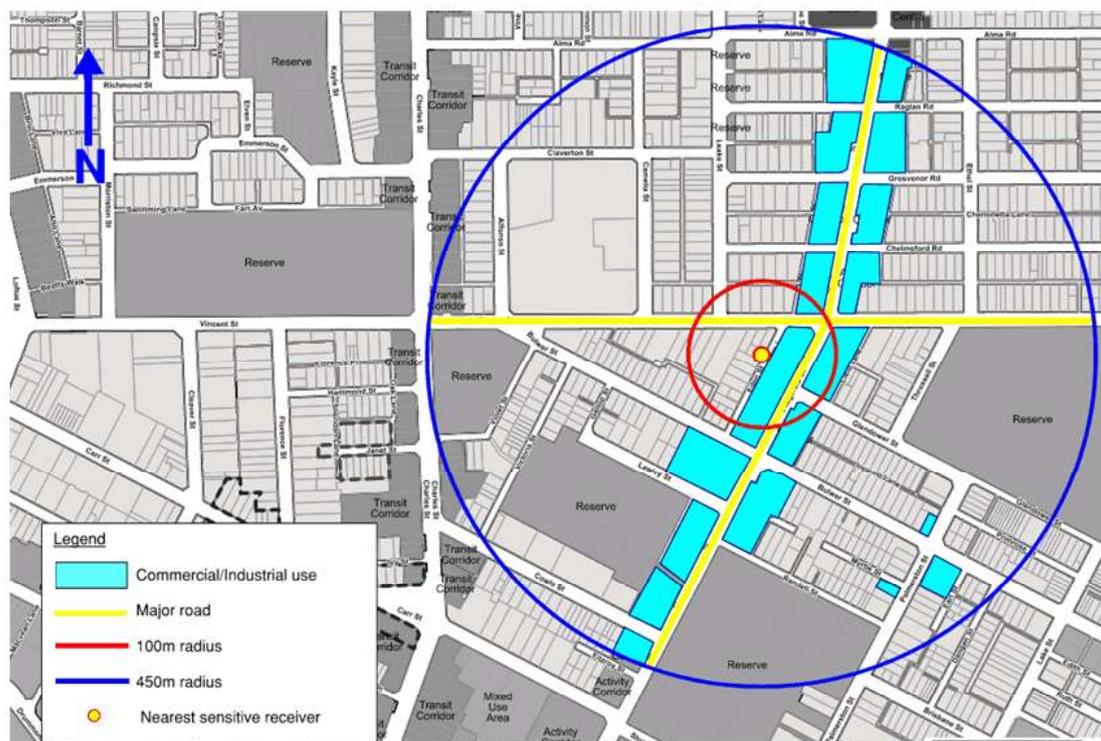
Table 3 provides overall recommendations for steady type of noise. In this regard, the noise criteria presented in Section 3.2.3 are more suitable for evaluation of noise emissions from this site.

3.2.2. External noise – WA Environmental Protection (Noise) Regulations 1997

Noise emissions from commercial premises to nearby residential properties are covered by State noise policy in the form of the Western Australia Environmental Protection (Noise) Regulations 1997 (EPNR). To achieve compliance with this policy, noise levels at nearby residential areas are not to exceed defined limits. These limits are determined from consideration of prevailing background noise levels and ‘influencing factors’ that consider the level of commercial and industrial zoning in the locality.

The influencing factor considers zoning and road traffic volumes around the sensitive receivers of interest, within a 100 and 450 m radius (see Figure 3). This is represented by the nearest resident at 23 Eden St.

Figure 3 Influencing factor and zoning map





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The resulting influencing factor is 8 dB, based on:

- A commercial zoning factor of 1.8 dB due to 28% commercial/mixed use area within the inner circle, and 8% commercial/mixed use area in the outer circle.
- A transport factor of 6 dB due to a major road (Fitzgerald St) within the inner circle.

A summary of the applicable outdoor noise criteria is provided in **Table 3**.

Table 3 WA EPNR Assigned Noise Levels

| Type of premises receiving noise | Time of day | Assigned Level (dB) | | |
|---|--|---------------------|-----------------|-------------------|
| | | L _{A10} | L _{A1} | L _{Amax} |
| Noise sensitive premises: highly sensitive area | 0700 to 1900 hours Monday to Saturday | 53 | 63 | 73 |
| | 0900 to 1900 hours Sunday and public holidays | 48 | 58 | 73 |
| | 1900 to 2200 hours All days | 48 | 58 | 63 |
| | 2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays | 43 | 53 | 63 |
| Noise sensitive premises: any area other than highly sensitive area | All hours | 60 | 75 | 80 |
| Commercial premises | All hours | 60 | 75 | 80 |

A series of adjustments must be added to the noise source levels. If noise received at the sensitive premises cannot reasonably be free of intrusive characteristics of tonality, modulation and impulsiveness, and the adjusted level must comply with the assigned level. Definition of these terms (tonality, modulation and impulsiveness) can be read from Regulation 9(1) of the EPNR. **Table 4** summarises the adjustments, as defined by the Regulations.

Table 4 Noise character adjustments

| Adjustment where noise emission is not music | | |
|--|-----------------------------|--------------------------------|
| Where tonality is present | Where modulation is present | Where impulsiveness is present |
| +5 dB | +5 dB | +10 dB |

Notes: The full table in the EPNR includes corrections for tonality, modulation and impulsiveness for the case when noise emission is music. Such case does not apply to this assessment. Thus, not included herein to avoid confusion.

Impulsiveness is expected from the noise sources identified from this site and it is applicable, accordingly.

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While these outdoor noise limits are compulsory in Western Australia, it was determined from the site visit that what is triggering noise complaints is indoor noise levels felt within the surrounding noise sensitive premises (residential and commercial).

The EPNR recommends adjustments to the assigned noise levels listed in **Table 4** to derive an equivalent noise limit, which can be applied indoors. Noise and vibration from the site were only tested between the site and the nearest commercial premises (301 Fitzgerald St), but not at the nearest residential premises (23 Eden St) as access was not granted to these premises. Assessment to the residents is indicative then.

This report presents data that identified ground-bourne vibration and regenerated noise as the principal potential cause of annoyance to the neighbouring premises, as well as some residual airborne components. Therefore, it is expected that when vibration is appropriately treated from the site, it would be feasible to treat airborne noise emissions to a point that received outdoor (or indoor) noise would be directly comparable to EPNR noise objectives. Without addressing vibration first, following the nominated assessment criteria presented in **Section 3.1** and its regenerated noise component, it would not be reasonable to determine compliance with the EPNR at this point.

Thus, the principal objective of this report is to identify and quantify the sources of noise or vibration that generate potential for annoyance, based on vibration and ground-bourne regenerated noise objectives. Compliance with EPNR will be commented and estimated.

3.2.3. Ground-bourne noise

Ground-borne noise refers to noise that is first transmitted to the ground as vibration, which then travels to a sensitive location (such as a house) through the ground and foundations, where the walls, floor and ceiling produce audible noise by their vibration coupling into air. This type of noise, also termed regenerated noise, is characterised by a rumbly character.

WA noise regulations note regenerated noise as a form of annoyance; however, there is no objective noise criterion or guidelines for assessment. Recommended action criteria from the NSW Rail Infrastructure Noise guideline and the QLD Transport Noise Management Code of Practice regarding ground borne noise arising from construction activities is suggested. Ground-borne noise limits for residential dwellings are provided in the following table.

Table 5 Indicative operational ground-borne noise investigation limits

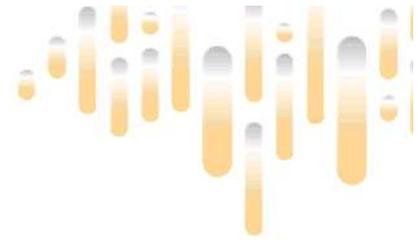
| Building | Regenerated / Ground-bourne noise limit | |
|-----------------------|---|--------------------------------------|
| | Time period | L _A S _{max} (dB) |
| Residential dwellings | Day (6am – 10pm) | 40 |
| | Night (10pm – 6am) | 35 |
| Offices | While in use | 40 |
| Retail | While in use | 45 |

Note: Consistent measurement of internal L_AS_{max} values is very difficult, as it is strongly influenced by unique ground and building structural arrangement, structural condition, furnishings etc. Higher values may be appropriate for temporary or intermittent events.

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4. ASSESSMENT

4.1. Methodology

ACA conducted a site visit on Wednesday 2nd of June 2021 to inspect the premises and to conduct noise and vibration testing. The objective was to undertake controlled measurements of noise and vibration during coordinated weight dropping events.

A gym instructor assisted the measurements to lift and drop typical, medium and worst-case weight scenarios that may occur during cross fit classes. A number of weight sources were used to conduct the tests, the sample weights used were:

- 60 kg Olympic bar and bumper plates system (20 kg bar + 2 x 20 kg bumper plates);
- 50 kg Olympic bar and bumper plates system (20 kg bar + 2 x 15 kg bumper plates);
- 24 kg Kettle bell (metal finish); and
- 22.5 kg Dumbbell (rubber finish).

These are shown in **Figure 5**.

Figure 5 Weights tested – 20kg bumper plates, 24 kg kettle bells, 22.5 kg dumbbells



The weights were tested at typical drop heights, these being:

- Typical: Hip standing height, approximately 0.8 m above the ground; and
- Worst-case: Over-head height, approximately 1.9 m above the ground.

These are shown in **Figure 6**.

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Figure 6 Weight drop heights tested – 0.8 m and 1.9 m



The tests were repeated several times at a number of pre-selected locations within the gym floor in order to quantify noise and vibration from the site and characterise these emissions with statistical detail. Finally, one of the existing rubber tiles in the gym was removed to test the shock vibration generated when the concrete slab was directly tested.

Measurements were conducted indoors within an office space, at the closest neighbouring premises. ACA suggested also undertaking measurements at the nearest resident receiver on Eden St; however, the occupant denied access.

Noise and vibration data collected during the coordinated tests were analysed to determine representative levels as measured at receivers' locations. These levels were then assessed against the applicable nominated criteria, as described in Section 3. The residential prediction figures were estimated based on theoretical models as measurements could not be undertaken.

Finally, conclusions and recommendations are made provided based on the identified issues and potential feasible solutions to reasonably control emissions from the site.

4.2. Noise and Vibration Testing

During ACA's site visit a series of attended noise and vibration measurements were undertaken using a Type 1 integrating level meter in order to determine received levels generated by the various tests. The meters were set to record 1/3 octave band noise and vibration data every second and the results were post-processed for comparison with the nominated criteria.

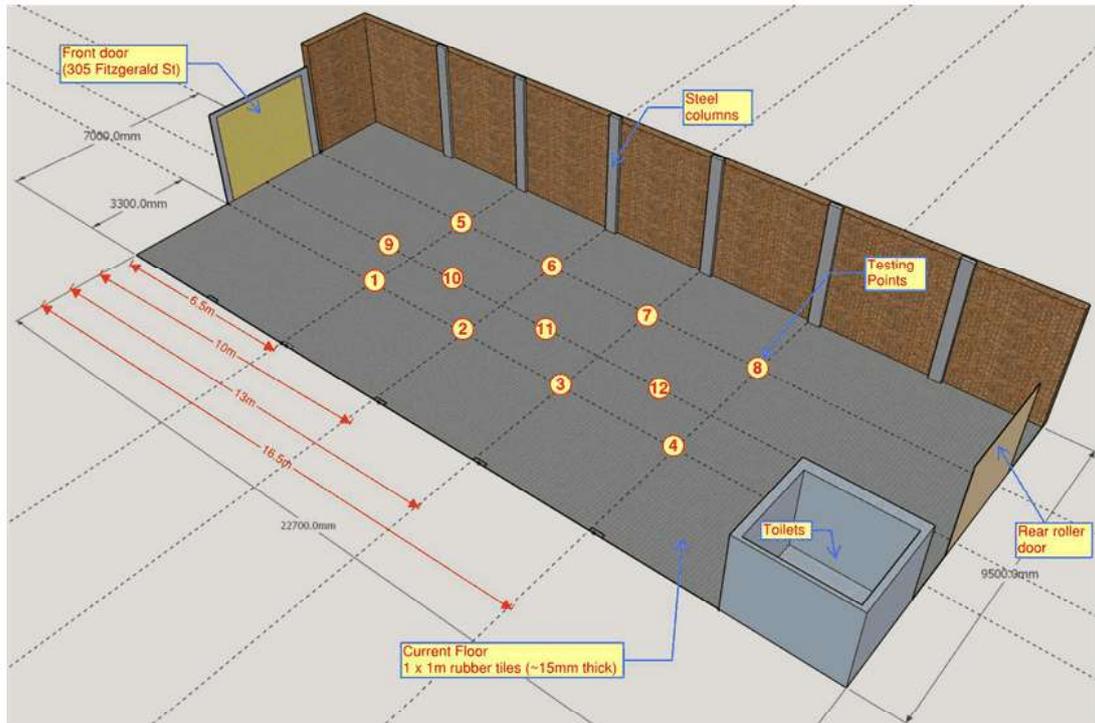
The tests' locations are shown in Figure 7. 12 points on the existing gym floor were chosen as the most representative and sensitive locations on site to conduct the weight drop tests. Several tests were conducted at each of these locations.

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Figure 7 Weight drop tests' locations

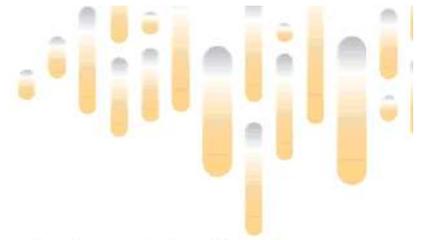


The noise and vibration measurements were conducted at the office located on the ground floor of 301 Fitzgerald St, inside a small room. The monitoring equipment, as used on site, is shown in Figure 8.

Figure 8 Noise and vibration monitoring at the receiver – Location 'A': 301 Fitzgerald St



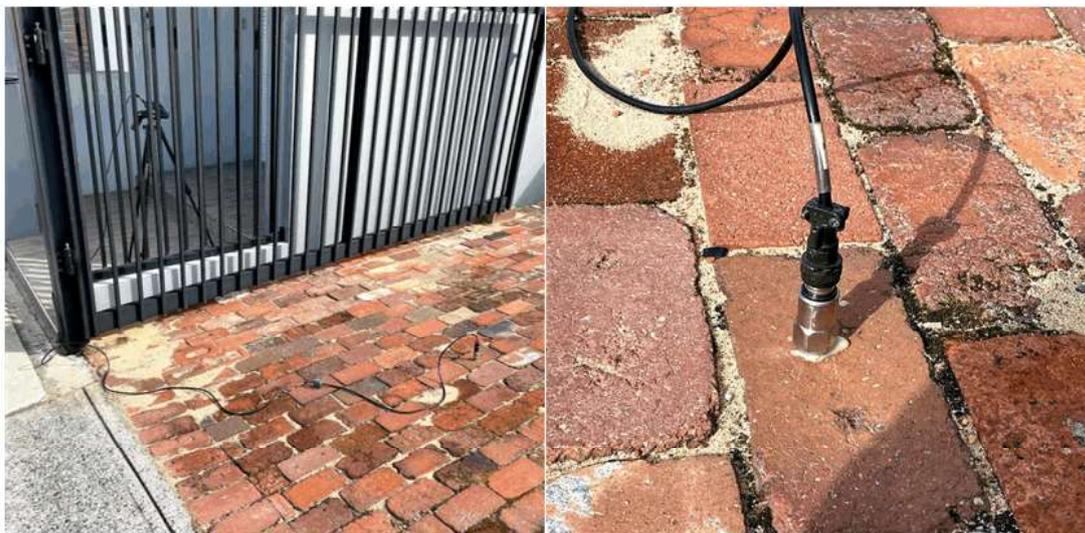
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Vibration measurements were additionally conducted across Eden St, by the residential unit at 23 Eden St. However, this was only done outdoors as access to the residential dwelling was not granted. These measurements were not extensively analysed and considered in this assessment as synchronous internal noise measurements would have been required. Outdoor noise measurements at this location would not add any value to the analyses since internal noise levels are re-generated by internal vibrations. Corrections for building coupling losses and slab amplification would need to be assumed, which would introduce uncertainty. **Figure 9** shows a photo of the measurements conducted outside 23 Eden St.

Figure 9 Vibration monitoring at the receiver – Location ‘B’: 23 Eden St



The equipment detailed in **Table 6** was used in the noise and vibration survey. These instruments comply with AS IEC 61672.1 – 2004 “Electroacoustics – Sound level meters – Specifications” and AS IEC 60942-2004: “Electroacoustics - Sound Calibrators” as appropriate and have current calibration certificates traceable to a NATA certified laboratory.

Table 6 Noise and vibration monitoring equipment

| Item | Monitoring Location | Make/Model | Type / Specification | Serial Number |
|-----------|---------------------|--------------------|----------------------|---------------|
| Noise | A | SVAN 971 | Class 1 | 77604 |
| | A | SVAN SV 33A | Class 1 | 76674 |
| Vibration | A & B | NTi Audio XL2 | Class 1 | A2A-18134-E0 |
| | A & B | IEPE Wilcoxon 786A | 100 mV/g | 5352 |

The tests conducted are described in **Table 7**.



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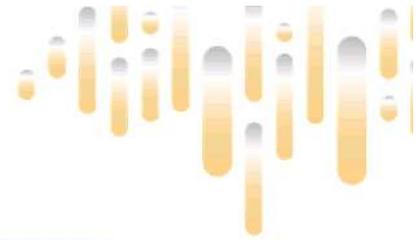
Table 7 Tests list and description (measured at receivers' location A)

| Test # | Description | Location (See Figure 7) |
|--------|---------------------------------------|----------------------------|
| 1 | 60kg Olympic weight, Hip height | 8 |
| 2 | | |
| 3 | 60kg Olympic weight, Over-Head height | |
| 4 | | |
| 5 | 50kg Olympic weight, Hip height | |
| 6 | | |
| 7 | 50kg Olympic weight, Over-Head height | |
| 8 | | |
| 9 | 24kg kettlebell, Hip height | |
| 10 | | |
| 11 | 22.5kg Dumbbell, Hip height | |
| 12 | | |
| 13 | 60kg Olympic weight, Hip height | |
| 14 | | |
| 15 | 60kg Olympic weight, Over-Head height | 6 |
| 16 | | |
| 17 | 60kg Olympic weight, Hip height | |
| 18 | | 5 |
| 19 | 60kg Olympic weight, Over-Head height | |
| 20 | | |
| 21 | 60kg Olympic weight, Hip height | 4 |
| 22 | | |
| 23 | 60kg Olympic weight, Over-Head height | |
| 24 | | 3 |
| 25 | 60kg Olympic weight, Hip height | |
| 26 | | |
| 27 | 60kg Olympic weight, Over-Head height | 2 |
| 28 | | |
| 29 | 60kg Olympic weight, Hip height | |
| 30 | | 2 |
| 31 | 60kg Olympic weight, Over-Head height | |
| 32 | | |
| 33 | 60kg Olympic weight, Hip height | |
| 34 | | |

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| Test # | Description | Location (See Figure 7) |
|--------|---|----------------------------|
| 35 | 60kg Olympic weight, Over-Head height | |
| 36 | | |
| 37 | 60kg Olympic weight, Hip height | 1 |
| 38 | | |
| 39 | 60kg Olympic weight, Over-Head height | |
| 40 | | |
| 41 | 60kg Olympic weight, Hip height | 9 |
| 42 | | |
| 43 | 60kg Olympic weight, Over-Head height | |
| 44 | | |
| 45 | 60kg Olympic weight, Hip height | 10 |
| 46 | | |
| 47 | 60kg Olympic weight, Over-Head height | |
| 48 | | |
| 49 | 60kg Olympic weight, Hip height | 11 |
| 50 | | |
| 51 | 60kg Olympic weight, Over-Head height | |
| 52 | | |
| 53 | 60kg Olympic weight, Hip height | 12 |
| 54 | | |
| 55 | 60kg Olympic weight, Over-Head height | |
| 56 | | |
| 57 | 22.5kg Dumbbell, Hip height, directly on slab | 8 |
| 58 | | |
| 59 | 22.5kg Dumbbell, Hip height, directly on slab | |
| 60 | | |
| 61 | Ambient vibration (no test) | n/a |

4.3. Results

4.3.1. Vibration

Table 8 below summarises the measured vibration levels and the following graph of **Figure 10** shows the assessment against the human response criteria.

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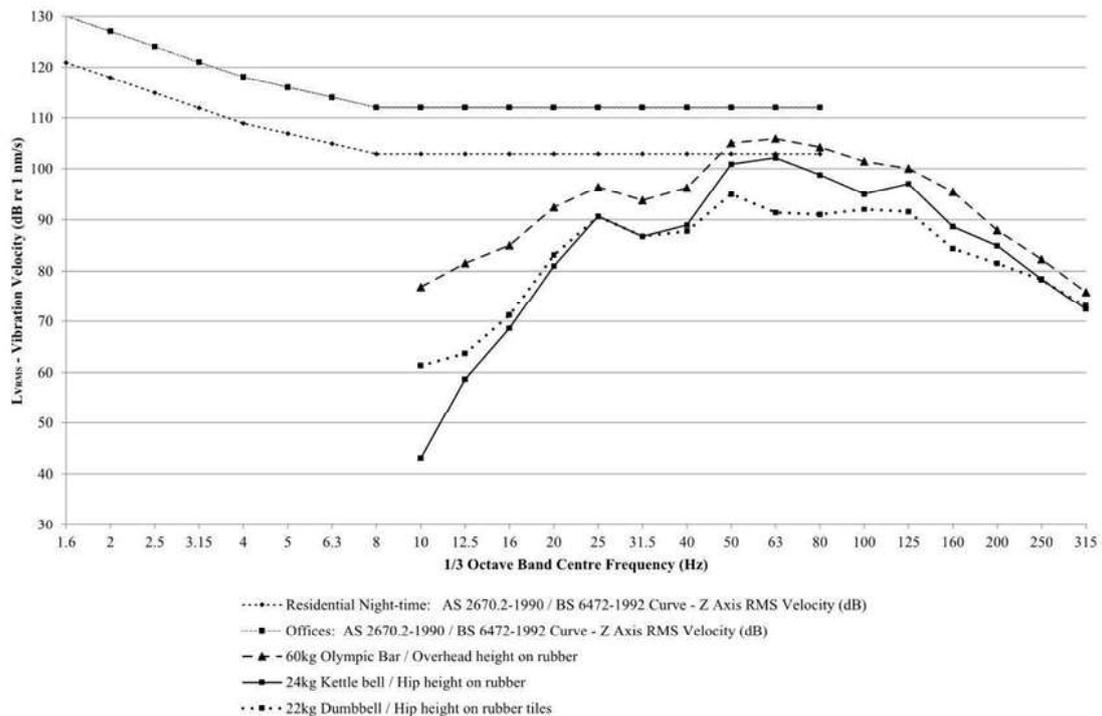
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Table 8 Summary of averaged vibration levels measured at location A

| Test | Vibration Velocity – $L_{VRMS(max)}$ (dB re 1 nm/s) |
|--|---|
| 60 kg Olympic bar, Over-head height | 111 dB |
| 60 kg Olympic bar, Hip height | 108 dB |
| 50 kg Olympic bar, Hip height | 107 dB |
| 24 kg Kettlebell metal, Hip height | 107 dB |
| 22.5 kg Dumbbell rubber, Hip height | 101 dB |
| 22.5 kg Dumbbell rubber, Hip height, directly on concrete slab | 102 dB |

Figure 10 BS6472 Vibration criteria – Human comfort. Assessment of the measured levels at Location A.



It is observed that the three representative vibration level spectra measured at the adjacent office location are all below the recommended vibration levels for offices and just marginally above the night-time residential vibration criteria for human comfort, for the 60 kg Olympic bar tested. The tests with lower weights are all within the recommended vibration levels for human comfort.



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The highest excursions in all cases occur in the critical frequency range identified with the measurements for weight drops at the site, which is between 50 and 80 Hz. Although in some instances the tests registered significant spectral presence up to around 160 Hz, this is believed to be related to the testing points that are lined up with the gym steel columns (shown in **Figure 7**).

In first instance, the assessment of vibration does not reveal excessive levels of disruption at the nearest sensitive receivers, based on human comfort criteria. However, from the subjective observations, it was perceived that the tonal regenerated noise was the main issue. This is discussed in the following sections.

4.3.2. Noise

Table 9 below summarises the measured noise levels.

Table 9 Summary of averaged noise levels measured at location A

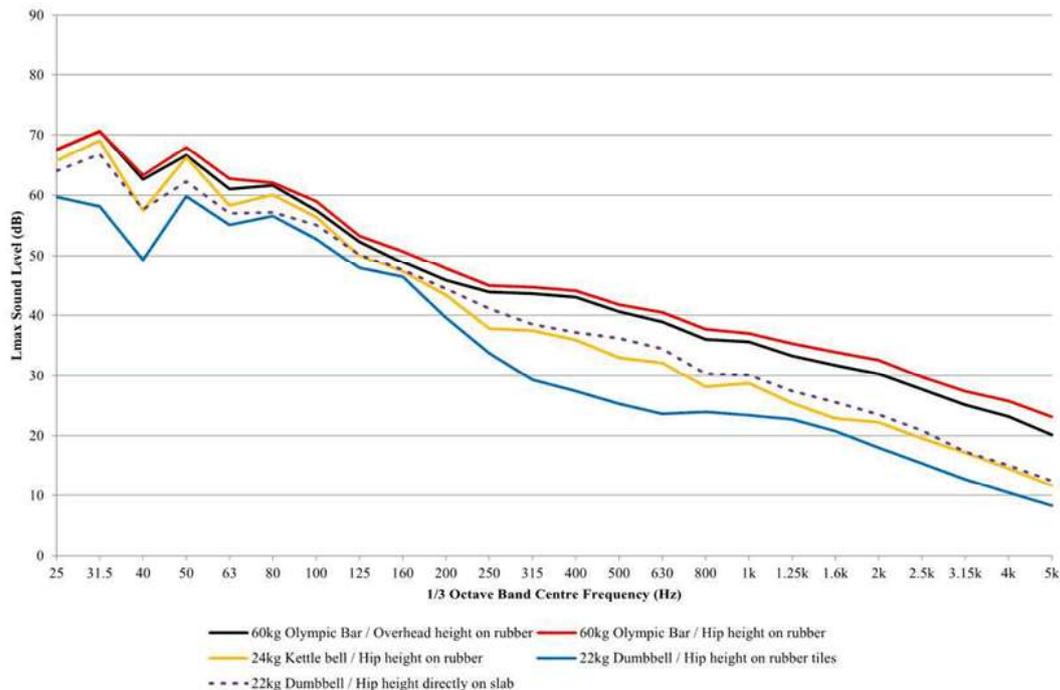
| Test | Noise Levels – L _{Amax} (dB re 20 µPa) |
|--|--|
| 60 kg Olympic bar, Hip height | 56 dBA |
| 60 kg Olympic bar, Over-head height | 57 dBA |
| 50 kg Olympic bar, Hip height | 51 dBA |
| 24 kg Kettlebell metal, Hip height | 54 dBA |
| 22.5 kg Dumbbell rubber, Hip height | 49 dBA |
| 22.5 kg Dumbbell rubber, Hip height, directly on concrete slab | 52 dBA |

The impacts of the noise levels measured at the receiver's location are discussed in **Section 4.4**. It was noticed during the measurements that the noise levels generated during weight drop tests had tonal characteristics at the low frequencies that correspond to those vibration levels as indicated in the previous section. That is, significant low frequency components between 25-31.5 Hz and between 50-160 Hz, which indicates that a significant part of the airborne noise measured on site is actually produced by building vibration-induced regenerated noise.

The following graph of **Figure 11** shows the airborne measured noise spectra for the various tests.



Figure 11 L_{Amax} noise spectra of various weight drops – Location A.



4.3.3. Regenerated Noise

Internal ground-borne regenerated noise levels were calculated for each of the test events using the vibration levels; these levels were compared to the noise levels measured within the bedroom on the first floor. The regenerated noise levels were calculated following guidance from the US Office of Planning and Environment Federal Transit Administration Report² and the UK Association of Noise Consultants (ANC) Guidelines³.

The general regenerated noise calculation methodology is set by the following steps:

- Maximum 1-second RMS velocity vibration levels in dB (referenced to a velocity of 1 nm/s) for each 1/3 octave band between 1 Hz and 315 Hz are either measured or estimated for each sensitive receiving location.

² C.E. Hanson, D.A. and L.D. Meister 2006, Transit Noise and Vibration Impact Assessment, Office of Planning and Environment, Federal Transit Administration, report FTA-VA-90-1003-06, Washington DC

³ Association of Noise Consultants, 2012, ANC Guidelines – Measurement and Assessment of Ground-borne Noise & Vibration

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- A correction of -32 dB is applied to each frequency band to convert building vibration levels into ground-borne noise levels, between the same frequency range (1 Hz – 315 Hz).
- For first floor receivers, coupling losses and mid-span concrete slab amplification are added and subtracted, accordingly:
 - Foundation losses (i.e. reduction of vibration caused by the building foundations and the type of building materials) range between -4 dB and -6 dB in the range between 16 Hz and 315 Hz.
 - Building slab amplification varies depending on the structural elements' locations. In average, for typical residential masonry building environment, this varies between +9 dB at 16 Hz and +2 dB at 315 Hz.
- The resulting spectrum in 1/3 octave bands, after of subtraction of corrections/losses and addition of amplification figures, is A weighted for the frequency range of interest (1 Hz – 315 Hz). **Table 10** shows the calculated low frequency regenerated noise $L_{Amax,1s}$.

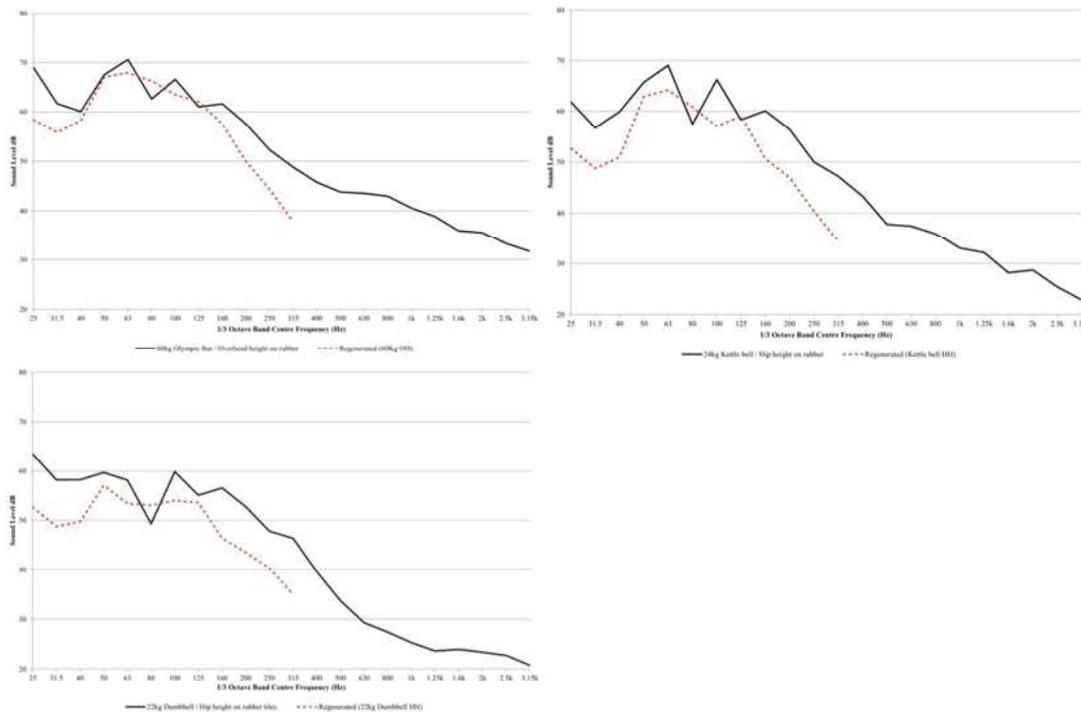
Figure 12 shows the comparison of the measured airborne noise (solid black lines) and the estimated building vibration-induced regenerated noise levels (dotted red lines). Note the regenerated noise dominant in the low frequencies.

Table 10 Summary of averaged calculated regenerated noise levels at location A

| Test | Noise Levels – L_{Amax} (10-315 Hz) (dB re 20 μ Pa) |
|--|--|
| 60 kg Olympic bar, Hip height | 52 dBA |
| 60 kg Olympic bar, Over-head height | 48 dBA |
| 50 kg Olympic bar, Hip height | 47 dBA |
| 24 kg Kettlebell metal, Hip height | 47 dBA |
| 22.5 kg Dumbbell rubber, Hip height | 42 dBA |
| 22.5 kg Dumbbell rubber, Hip height, directly on concrete slab | 45 dBA |



Figure 12 L_{Amax} Vibration-induced regenerated noise vs. Measured airborne noise: 1) 60 kg Olympic bar; 2) 24 kg kettle bell; 3) 22.5 kg dumbbell



The regenerated noise levels presented in **Table 10** are all in excess of those recommended in **Table 5** for offices or residential spaces during daytime, which is expected to be approximately up to 12 dB above the recommended level of L_{Amax} 40 dB.

4.4. Discussion of Results

With regards to vibration

While it was determined from the measurements and the assessment that vibration does not necessarily represent a significant source of annoyance at the neighbouring sensitive premises, it was also determined that a combination of airborne and vibration-induced regenerated noise produces a loud impulsive effect at internal locations, which are above recommended standards.

With regards to noise

The measured airborne noise levels are still assessable under the EPNR and, being internal noise, a theoretical -15 dB correction to the L_{Amax} 80 dB assigned noise levels of **Table 3** would be applicable to allow for external to internal reduction in the office building. Additionally, an extra adjustment of +10 dB would be applicable to noise emissions from weight drops specifically, due to impulsiveness adjustment applicable per **Table 4**.

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Therefore, we assess/compare the EPNR derived limit of L_{Amax} 55 dB to the airborne results of **Table 9** which sit in the L_{Amax} 49-57 dB range. This suggests an exceedance of 2 dB to the EPNR. This figure will vary at the residential premises; however, this was not evaluated since internal noise measurements were not possible.

Theoretical vibration propagation attenuation between the gym and the residential premises was estimated to be approximately 4-8 dB, which it would indicate regenerated noise levels in the L_{Amax} 41-53 dB range at the nearest residential dwelling on Eden St. Considering the EPNR derived limit of L_{Amax} 38 dB (already corrected for impulsiveness and outdoor/indoor conditions), for residential premises after 7pm, this may lead to a potential exceedance of the EPNR of 15 dB.

While it is clear from the measurements that regenerated noise is at high risk of triggering the annoyance, airborne noise is found to be dominant at locations within the neighbouring office on Fitzgerald St. It has been determined that the airborne noise component during weight drops would also need to be reduced by up to 4 dB. This is difficult to determine without treating vibration first though. This suggests that the gym would require some treatment in the airborne path as well as on the gym flooring (i.e. windows and doors).

In summary, the assessment suggests that vibration shall be reduced by treating the gym floor with a flooring solution to provide a minimum insertion loss of 15 dB. Airborne noise shall also be reduced by 4 dB by minimising noise breaking out the gym, particularly through windows and doors.

With regards to the existing floor mats

The testing conducted in the gym was generally done with the existing rubber flooring. Additional testing was conducted without one floor tile to test the relative impact (insertion loss) currently provided by an average location within the gym (i.e. Tests # 57 to 60, as shown in **Table 7**). **Figure 13** shows the sample test and the graph in **Figure 14** shows the comparative spectra between not having against having the existing mat.

Figure 13 Sample test of the existing slab (no rubber tile)



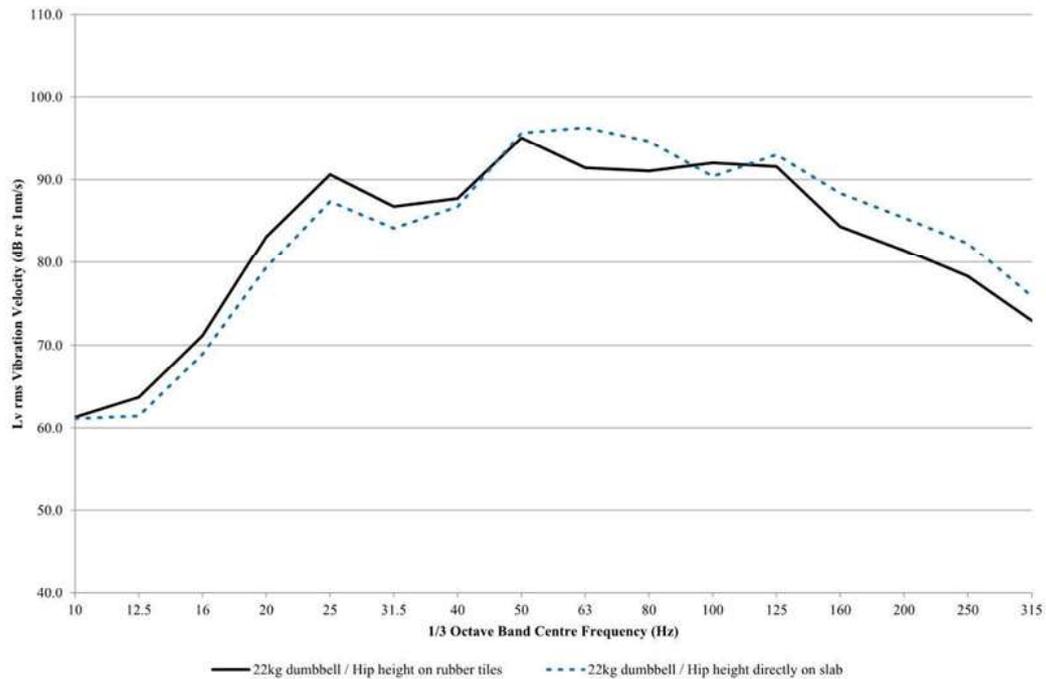
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Figure 14 Comparison 22.5 kg dumbbell drop on existing rubber floor vs. bare slab



The above results suggest that the current performance of the rubber flooring does not provide the overall insertion loss expected by a 10-15mm rubber flooring tile sitting on a concrete slab, depending on the product/make. The results show an overall vibration reduction of 1 dB.

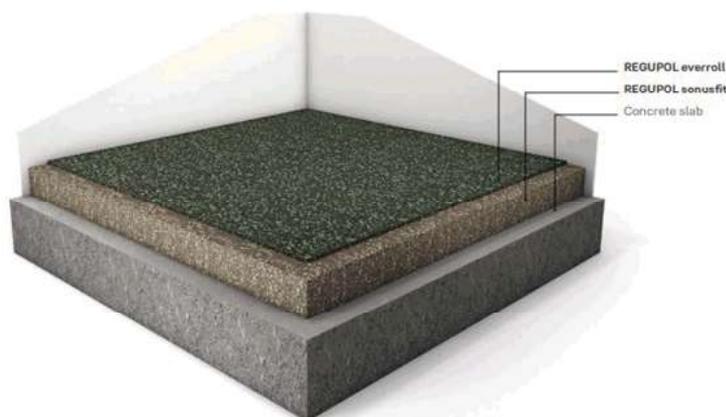
This suggests that the floor should be replaced with a high performing product to achieve reasonable levels of vibration control. Further, this will provide an indirect reduction in airborne emissions.



5. RECOMMENDATIONS

To reduce building vibration-induced noise at sensitive receivers' locations, it is recommended that a number of measures are implemented to minimise shock impact vibration:

1. Replace the existing rubber floor with an alternative flooring solution that will provide a minimum of 15 dB L_{Amax} insertion loss for a typical weight drop. The product to use shall have a very low natural frequency (i.e. 8 Hz or lower) and enough deflection (i.e. maximum 10mm under maximum weights) to ensure that maximum drop energies from the heaviest weights used in the gym are effectively mitigated by the floor.
2. To address point number 1, a number of solutions may be used from two main alternatives: Floating floor or rubber mats. If rubber mats are preferred, a certified rubber mat (e.g. Regupol or Embelton) shall be used and a minimum thickness of 50 mm will be recommended to meet the insertion loss required. This is to be confirmed with product suppliers to ensure suitability, compatibility and availability. Indicatively, Regupol provides a potential suitable solution, as shown below. Details should be discussed with the supplier.



3. The proposed new floor covering shall not have exposed 'gaps', as this may bridge the surface to the slab and generate negative impact.
4. After the above is rectified, airborne noise may be further improved, focusing in windows and doors. However, this is not recommended until the floor system is rectified.
5. Management of the gym operations is always recommended to minimise impacts on neighbours, regardless of the floor solution. When classes start before 7am. These shall not include worst case weight drop scenarios until 7am. No operations have been considered after 10pm.

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APPENDICES



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APPENDIX A: Glossary of Acoustic Terms



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1 Sound Level or Noise Level

Sound consists of minute fluctuations in atmospheric pressure capable of evoking the sense of hearing. Noise is often used to refer to unwanted sound.

The human ear responds to changes in sound pressure over a very wide range. The loudest sound pressure to which the human ear responds is ten million times greater than the softest. The decibel (abbreviated as dB) scale reduces this ratio to a more manageable range by using logarithms.

The symbols SPL, L or L_p are commonly used to represent Sound Pressure Level.

The symbol L_A represents A-weighted Sound Pressure Level. The standard reference unit for Sound Pressure Levels expressed in decibels is 2 x 10⁻⁵ Pa.

2 "A" Weighted Sound Levels

The overall level of a sound is usually expressed in terms of dB(A), which is measured using a sound level meter with an "A-weighting" filter. This is an electronic filter with a frequency response corresponding approximately to that of human hearing.

People's hearing is most sensitive to sounds at mid frequencies (500 Hz to 4000 Hz), and less sensitive at lower and higher frequencies. Thus, the level of a sound in dB(A) is a good measure of the loudness of that sound. Different sources having the same dB(A) level generally sound about equally loud.

A change of 1 dB or 2 dB in the level of a sound is difficult for most people to detect, whilst a 3 dB to 5 dB change corresponds to a small but noticeable change in loudness. A 10 dB(A) change corresponds to an approximate doubling or halving in loudness. The table below lists examples of typical noise levels:

Typical noise levels and subjective scale

| Sound Pressure Level dB(A) | Noise Source | Subjective Evaluation |
|----------------------------|--|-----------------------|
| 130 | Threshold of pain | Intolerable |
| 120 | Heavy rock concert | Extremely loud |
| 110 | Grinding on steel | |
| 100 | Loud car horn at 3 m | Very loud |
| 90 | Construction site with pneumatic hammering | |
| 80 | Kerbside of busy street | Loud |
| 70 | Loud radio or television | |
| 60 | Department store | Moderate to quiet |
| 50 | General Office | |
| 40 | Inside private office | Quiet to very quiet |
| 30 | Inside bedroom | |
| 20 | Recording studio | Almost silent |

Other weightings (e.g. B, C and D) are less commonly used than A-weighting in environmental acoustics. Sound Levels measured without any weighting are referred to as "linear" and the units are expressed as dB(Lin) or dB.

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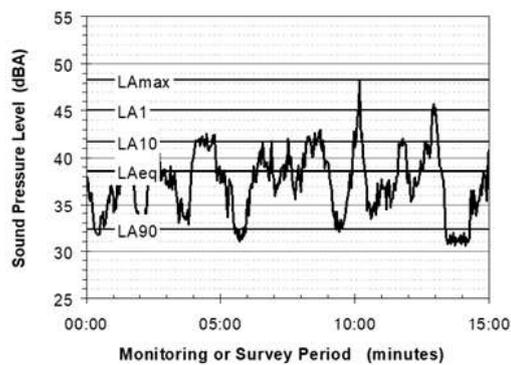
3 Sound Power Level

The Sound Power of a source is the rate at which it emits acoustic energy. As with Sound Pressure Levels, Sound Power Levels are expressed in decibel units, and these may be identified by the symbols SWL or L_w . The Sound Power definitions expressed in dB are typically referenced to the acoustic energy unit 10^{-12} W.

4 Statistical Noise Levels

Sounds that vary in level over time, such as road traffic noise and most community noise, are commonly described in terms of the statistical exceedance levels L_{AN} , where L_{AN} is the A-weighted sound pressure level exceeded for N% of a given measurement period. For example, the L_{A1} is the noise level exceeded for 1% of the time, L_{A10} the noise exceeded for 10% of the time.

The following figure presents a hypothetical 15-minute noise survey, illustrating various common statistical indices of interest.



Of particular relevance, are:

- L_{A1} The noise level exceeded for 1% of the 15 minute interval.
- L_{A10} The noise level exceeded for 10% of the 15 minute interval. This is commonly referred to as the average maximum noise level.
- L_{A90} The noise level exceeded for 90% of the sample period. This noise level is described as the average minimum background sound level (in the absence of the source under consideration), or simply the background level.
- L_{Aeq} The A-weighted equivalent noise level (basically the average noise level). It is defined as the steady sound level that contains the same amount of acoustical energy as the corresponding time-varying sound.

When dealing with numerous days of statistical noise data, it is sometimes necessary to define the typical noise levels at a given monitoring location for a particular time of day. Standardised methods are available for determining these representative levels. Different jurisdictions would choose to define their own preferred Standard.



CITY OF VINCENT

"Enhancing and celebrating our diverse community"

MINUTES

26 MARCH 2013

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ORDINARY MEETING OF COUNCIL
26 MARCH 2013

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CITY OF VINCENT
MINUTES

9.1.5 No. 305 (Lot 4; D/P 1602) Fitzgerald Street, North Perth (Proposed Change of Use from Showroom/Warehouse to Recreational Facility (Crossfit Gym))

| | | | |
|-----------------------------|--|------------------|---------------------|
| Ward: | South | Date: | 15 March 2013 |
| Precinct: | Hyde Park, P12 | File Ref: | PRO5938; 5.2013.3.1 |
| Attachments: | 001 – Property Information Report and Development Application Plans 002 – Applicant Submission 003 – Applicant Submission to Council | | |
| Tabled Items: | Nil | | |
| Reporting Officer: | A Dyson, Planning Officer (Statutory) | | |
| Responsible Officer: | C Eldridge, Director Planning Services | | |

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by Platform Crossfit, on behalf of the owner, Jedan Holdings Pty Ltd, for Proposed Change of Use from Showroom/Warehouse to Recreational Facility (Crossfit Gym) at No. 305 (Lot 4; D/P: 1602) Fitzgerald Street, North Perth, and as shown on plans stamp-dated 3 January 2013 and amended plans stamp dated 16 January 2013, subject to the following conditions:

1. The maximum gross floor area of the recreational facility shall be limited to 205 square metres, as depicted on the plans;
2. The maximum total number of employees shall be limited to three (3) at any one time;
3. The maximum total number of clients shall be limited to eight (8) at any one time;
4. This approval is valid for a period of one (1) year after which time the applicant will be required to have obtained a further planning approval;
5. The hours of operation shall be limited to 6.00am to 9.00am and 5.00pm to 8.00pm Monday to Friday and 7.00am to 12.00pm Saturday, inclusive and accordingly, the classes shall be scheduled to allow a 15 minute interval between classes to enable sufficient time for patrons to arrive and leave the facility;
6. The doors, windows and adjacent floor areas fronting Fitzgerald Street shall maintain an active and interactive relationship with this street;
7. WITHIN 28 DAYS OF THE ISSUE OF THE SUBJECT 'APPROVAL TO COMMENCE DEVELOPMENT', a detailed Parking Management Plan for the Recreational facility shall be submitted to and approved by the City. The Management Plan is to detail the following aspects:
 - 7.1 Operational Management - to minimise any potential impact on the surrounding locality from patrons parking at the premises and/or surrounding streets; and

ORDINARY MEETING OF COUNCIL
26 MARCH 2013

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CITY OF VINCENT
MINUTES

- 7.2 **Communications Strategy - outlining a complaint handling system which provides:**
- 7.2.1 a telephone number and email address to log complaints and enquiries;
 - 7.2.2 a procedure how complaints will be handled and associated timeframes for responding to such complaints; and
 - 7.2.3 a record of complaints and enquires logged, and the applicant's response, is to be provided on a 6 monthly basis to the City of Vincent for its information; and
8. **WITHIN TWENTY-EIGHT (28) DAYS OF THE ISSUE DATE OF THIS 'APPROVAL TO COMMENCE DEVELOPMENT', the owner(s) or the applicant on behalf of the owner(s) shall comply with the following requirements;**
- 8.1 **Cash in Lieu**
- Pay a cash-in-lieu contribution of \$7,203 for the equivalent value of 2,058 car parking spaces, based on the cost of \$3,500 per bay as set out in the City's 2012/2013 Budget; OR lodge an appropriate assurance bond/bank guarantee of a value of \$7,203 to the satisfaction of the City. This assurance bond/bank guarantee will only be released in the following circumstances:
- 8.1.1 To the City at the date of issue of the Building Permit for the development, or first occupation of the development, whichever occurs first; or
 - 8.1.2 To the owner(s)/applicant following receipt by the City of a Statutory Declaration of the prescribed form endorsed by the owner(s)/applicant and stating that they will not proceed with the subject 'Approval to Commence Development'; or
 - 8.1.3 To the owner(s)/applicant where the subject 'Approval to Commence Development' did not commence and subsequently expired; and
9. **PRIOR TO THE FIRST OCCUPATION OF THE DEVELOPMENT, the following shall be completed to the satisfaction of the City:**
- 9.1 **Car Parking**
- The car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the City; and
10. **the development is to comply with all Building, Health, Engineering and Parks Services conditions and requirements to the satisfaction of the City's Chief Executive Officer.**

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ADVICE NOTES:

1. all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Eden and Fitzgerald Streets;
2. Any new street/front wall, fence and gate within the Fitzgerald Street setback area, including along the side boundaries within this street setback area, shall comply with the City's Policy provisions relating to Street Walls and Fences.
3. All signage that does not comply with the City's Policy relating to Signs and Advertising shall be subject to a separate Planning Application and all signage shall be subject to a separate Sign Licence application, being submitted to and approved by the City prior to the erection of the signage;

COUNCIL DECISION ITEM 9.1.5

Moved Cr Topelberg, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED UNANIMOUSLY (8-0)

(Cr Wilcox was on approved leave of absence.)

PURPOSE OF REPORT:

The report is referred to a meeting of Council as more than five (5) objections have been received.

BACKGROUND:

Nil.

History:

Nil.

Previous Reports to Council:

Not Applicable.

DETAILS:

| | |
|----------------------------|--|
| Landowner: | Jedan Holdings Pty Ltd |
| Applicant: | Platform Crossfit (Mr B Dominguez & Ms N Haines) |
| Zoning: | Commercial |
| Existing Land Use: | Showroom/Warehouse |
| Use Class: | Recreational Facility |
| Use Classification: | "AA" |
| Lot Area: | 355 square metres |
| Right of Way: | N/A |

MINUTES OF MEETING HELD ON 26 MARCH 2013

(TO BE CONFIRMED ON 9 APRIL 2013)

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The proposal is for a change of use from Showroom/Warehouse to a Recreational Facility (Cross fit Gym). The Cross fit gym is essentially a structured fitness class under the guidance of a coach. The activity consists of a combination of free weight exercises, skipping, rowing, plyometric and bodyweight movements conducted at high intensity.

The applicant proposes classes (which operate for 1 hour) to take place between 6-9 am and from 5 -8pm, from Monday to Friday and 7.00am – 12.00pm on Saturday. The maximum employees at any one time proposed will be three (3) persons, with one (1) receptionist and two (2) coaches and classes are proposed to be a maximum of eight (8) people.

The subject property is located adjoining commercial offices within close proximity to the Gull Petrol Station, Bikram Yoga; and residential dwellings are located to the rear.

ASSESSMENT:

Town Planning Scheme/Parking and Access Policy Initial Assessment

| Design Element | Complies 'Acceptable Development' or TPS Clause | OR | 'Performance Criteria' Assessment or TPS Discretionary Clause |
|----------------------|---|----|---|
| Density/Plot Ratio | N/A | | |
| Streetscape | N/A | | |
| Front Fence | N/A | | |
| Front Setback | N/A | | |
| Building Setbacks | N/A | | |
| Boundary Wall | N/A | | |
| Building Height | N/A | | |
| Building Storeys | N/A | | |
| Open Space | N/A | | |
| Bicycles | ✓ | | |
| Access & Parking | | | ✓ |
| Privacy | N/A | | |
| Solar Access | N/A | | |
| Site Works | N/A | | |
| Essential Facilities | N/A | | |
| Surveillance | N/A | | |

Town Planning Scheme/Parking and Access Policy Detailed Assessment

Car Parking Calculation

| Car Parking | |
|--|----------------------------------|
| Car parking requirement (nearest whole number) Proposed Recreation (Internal) (1 car parking bay per 30 square metres of gross floor area – 205.16 square metres) – 6.839 car parking bays | = 7.0 car bays |
| Apply the adjustment factors. <ul style="list-style-type: none"> 0.85 (The proposed development is within 400 metres of a bus stop) 0.85 (The proposed development is within 400 metres of one or more existing public car parking place(s) with in excess of a total of 75 car parking spaces. | (0.7225) = 5.058 car bays |
| Minus the car parking provided on-site | 3.0 car bays |
| Minus the most recently approved on-site car parking shortfall | Nil car bays |
| Resultant Shortfall | 2.058 car bays |

If the proposal were to be supported a cash-in-lieu payment of \$7,203 would be required.

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Bicycle Parking Calculation

| Bicycle Parking | |
|---------------------------|---------------|
| Recreation – Nil required | None Proposed |

CONSULTATION/ADVERTISING:

| | | | |
|--------------------------|-----|-------------------------------------|-----|
| Required by legislation: | Yes | Required by City of Vincent Policy: | Yes |
|--------------------------|-----|-------------------------------------|-----|

| | |
|---------------------------|--|
| Comments Period: | 8 February 2013 – 21 February 2013 |
| Comments Received: | Seven (7) comments were received during the neighbour consultation period with six (6) objections received and one (1) noting concern. |

| Summary of Comments Received: | Officers Technical Comment: |
|---|---|
| <p>Issue: Car Parking</p> <p>Note that car parking is a significant problem within the area.</p> <p>Note that there is limited parking for the site for a business of this type, with the tenants likely to occupy the available bays, leaving the clientele to park along Eden Street.</p> <p>Concern that an existing Recreational facility in the area along with other uses including the Service Station/Hyde Park Hotel/Office Building have created parking issues within the area and noted that many of the cars from these facilities park at the rear of the subject tenancy along Eden Street, further limiting parking in the area. Furthermore residential property owners find it difficult to park along Eden Street.</p> | <p>Noted. It is considered that parking within the area is at a premium, however the use provides for a minimal car parking shortfall on site of 2.058 car parking bays, which is not considered of a significant impact and can be accommodated by the utilisation of other transport options to the site. Within walking distance of the premises there is a public car parking as well as opportunities for public transport.</p> <p>Noted. There are three (3) proposed car parking bays for the operators and the clientele for the premises at the rear of the property. It is considered that during the peak hours of operation at 8.00am in the morning and before 6.00pm that parking will be at a premium in the vicinity. However all parking bays within the vicinity are able to be utilised by any of the businesses in the area, subject to time constraints, and the nature of the use is not considered.</p> <p>Noted. Whilst there are a number of other uses to the proposed use in the vicinity, it is considered this section of Fitzgerald Street is of a Commercial zoning and is designed to function as an active area to accommodate various businesses. A by product of this will inevitably be a high utilisation of persons using a vehicle to access the properties. It is therefore considered that any use of the subject premises as a recreational facility will require its clientele to find alternative transport solutions if adequate parking is not available at the different parts of the day the facility operates.</p> |

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| Summary of Comments Received: | Officers Technical Comment: |
|--|--|
| Issue: Noise Concern regarding noise emanating from the gym. | Dismiss. It is considered that the subdued use of music for the premises is not considered unreasonable for a commercially zoned property. Any concerns relating to the level of noise can be considered according to the Environmental (Noise) Regulations 1997, which provide controls for the level of noise and by the City's Health Services. |
| Issue: Use Note the prevalence of other Gym and Pilates studios within close proximity to the proposed tenancy. | Dismiss. The City's Town Planning Scheme does not restrict/control the prevalence of a use. |

Note: Submissions are considered and assessed by issue rather than by individual submitter for clarity.

The applicant has provided the following response to the objections:

The following are responses to the neighbours' concerns:

- "1) Note the prevalence of other Gym and Pilates Studios within close proximity to the proposed tenancy."**
- "Cross Fit is not your usual gym; it is an instructor lead exercise class with limited class sizes. As far as we are aware there are presently no other Cross Fit Gyms in the City of Vincent. We hope to foster relationships with those businesses around us to refer clients to the Pilates/Yoga business to increase our clients' flexibility and core control as well as help promote local business with our members. In addition we hope to engage our residential neighbours with a 1 month free membership to help them improve their health and fitness."*
- "2) Note that car parking is a significant problem within the area.**
- 3) Note the limited parking for the site for a business of this type, with the tenants likely to occupy the available bays, leaving the clientele to park along Eden Street.**
- 4) Concern that an existing Recreational facility in the area along with other uses including the Service Station/Hyde Park Hotel/Office Building have created parking issues within the area and noted that many of the cars from these facilities park at the rear of the subject tenancy along Eden Street, further limiting parking in the area. Furthermore residential property owners find it difficult to park along Eden Street."**
- "We are aware that car parking is currently a problem in this area and that is why we will be asking our members to adhere to the following:*
- 1) *If possible use public transport; there are multiple bus routes that stop outside the property that can take people to and from work/home.*
 - 2) *Use a bike as a bike rack will be provided.*
 - 3) *Prohibit member parking on Eden Street to prevent further congestion on this street.*
 - 4) *Offer incentives to those that car pool and catch public transport."*
- "4) Concern regarding noise emanating from the gym (music)."**
- "The purpose of the music in a work out is to help the gym members get through the work out, however this is not to the detriment of being able to hear the coach taking the class as it is imperative that they can be heard above the music for safety and technique correction. Therefore the music will be kept at level that will not cause a disturbance to our neighbours."*

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Design Advisory Committee:

Referred to Design Advisory Committee: No

LEGAL/POLICY:

- City of Vincent Town Planning Scheme No. 1;
- Hyde Park Precinct Policy 3.1.12; and
- Planning and Access Policy 3.7.1.

RISK MANAGEMENT IMPLICATIONS:

Should the Council refuse the application for development approval, the applicant may have the right to have the decision reviewed in accordance with Part 14 of the *Planning and Development Act*.

STRATEGIC IMPLICATIONS:

The City's *Strategic Plan 2011-2016* states:

"Natural and Built Environment

1.1 *Improve and maintain the natural and built environment and infrastructure.*

1.1.2 *Enhance and maintain the character and heritage of the City."*

SUSTAINABILITY IMPLICATIONS:

The City's *Strategic Plan 2011-2016* states:

"Encourage the incorporation of sustainable design principles and features in existing and new development within the City as standard practice."

The following tables outline the applicable sustainability issues for this proposal:

| ENVIRONMENTAL | |
|---------------|---|
| Issue | Comment |
| | More efficient use of the subject land by utilising an existing building rather than redeveloping the site. The adaptive re-use of this existing space has a lower environmental impact compared to constructing a new building for this purpose. |

| SOCIAL | |
|--------|---|
| Issue | Comment |
| | The use of an indoor space for a recreation use will enhance the liveability of the area and provide opportunities for exercise. The proposal also provides for access to a wider range of services to the local community. |

| ECONOMIC | |
|----------|--|
| Issue | Comment |
| | Employment opportunities for persons who work in the premises and short term employment opportunities for the fit out of the premises. |

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

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COMMENTS & CONCLUSION:

It is considered that the use of the former Warehouse/Showroom premises as a Recreational Facility for a Cross fit Gym would, given the zoning of the property (Commercial), be an appropriate use for the area. Any concerns relating to the existing parking or impact of the business on the area will be controlled by the conditions of approval allowing for a finite number of clients to the business (eight).

The proposed hours of business from 6.00am – 9.00am and 5.00pm to 8.00pm Monday to Friday and Saturdays from 7.00am – 12.00pm, are mainly outside the core business hours of other uses in the vicinity, which will assist in minimising any disruption by way of parking in the area. In addition a condition is recommended to provide intervals between the classes so that clientele can leave the premises prior to new classes commencing, alleviating parking build-up further.

In light of the above, it is recommended the application be supported subject to the conditions listed above.

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THIS IS NOT A BUILDING PERMIT

Fifth Schedule Clause 42
For Office Use Only
Serial No. 5.2014.124.1**CITY OF VINCENT TOWN PLANNING SCHEME
APPROVAL TO COMMENCE DEVELOPMENT**

LOT: 4 D/P: 1602

STRATA LOT NO.:

PROPERTY ADDRESS: No. 305 Fitzgerald Street, WEST PERTH

OWNER: Jedan Holdings Pty Ltd
C/- Ray White Commercial Perth
PO Box 700
SUBIACO WA 6904

Approval to commence development in accordance with the application for Town Planning Approval dated 11 March 2014, received 17 March 2014 for Proposed Change of Use Renewal from Warehouse to Recreational Facility and the attached plans stamp dated 17 March 2014 was GRANTED in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:

1. The maximum gross floor area of the recreational facility shall be limited to 205 square metres, as depicted on the plans;
2. The maximum total number of employees shall be limited to five (5) at any one time;
3. The maximum total number of clients shall be limited to fifteen (15) at any one time;
4. The hours of operation shall be limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday, inclusive and accordingly, the classes shall be scheduled to allow a 15 minute interval between classes to enable sufficient time for patrons to arrive and leave the facility;
5. The doors, windows and adjacent floor areas fronting Fitzgerald Street shall maintain an active and interactive relationship with the street;
6. **WITHIN 28 DAYS OF THE ISSUE OF THE SUBJECT 'APPROVAL TO COMMENCE DEVELOPMENT'**, the owner(s) or the applicant on behalf of the owner(s) shall comply with the following requirements:
 - 6.1 Bicycle Bays
One (1) Class 1 or 2 and Two (2) Class 3 bicycle bays shall be provided. Bicycle bays must be provided at a location convenient to the entrance, publically accessible and within the development and bicycle bays for the clients and employees must be located within the development. The bicycle facilities shall be designed in accordance with AS2890.3.
7. The development is to comply with all Building, Health and Engineering and Parks Services conditions and requirements to the satisfaction of the City's Chief Executive Officer.

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ADVICE NOTES:

1. All external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Fitzgerald Street and Eden Street.
2. Any new street/front wall, fence and gate within the Fitzgerald Street setback areas, including along the side boundaries within these street setback areas, shall comply with the City's Policy provisions relating to Street Walls and Fences.
3. All signage that does not comply with the City's Policy No. 7.5.2 relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Building Permit application, being submitted to and approved by the City prior to the erection of the signage.

NOTES:

THE RELEVANT ENVIRONMENTAL HEALTH, ENGINEERING AND BUILDING REQUIREMENTS APPLICABLE TO THIS DEVELOPMENT IS CONTAINED IN THE ATTACHMENTS.

PLEASE NOTE THAT ANY ADDITIONAL PROPERTY NUMBERING TO THE ABOVEMENTIONED ADDRESS, WHICH IS RESULTANT FROM THIS APPLICATION, IS TO BE ALLOCATED BY THE CITY OF VINCENT AND NO OTHER PARTIES. IT IS RECOMMENDED THAT YOU LIAISE WITH THE CITY'S PLANNING SECTION ON THE ABOVE MATTER, DURING THE BUILDING PERMIT ISSUE STAGE.

PERSON(S), OWNER(S), BUILDER(S) AND DEVELOPER(S) UNDERTAKING DEVELOPMENT/CONSTRUCTION OF ANY KIND ARE HEREBY ADVISED OF A RESPONSIBILITY TO COMPLY WITH THE REQUIREMENTS OF THE DISABILITY DISCRIMINATION ACT 1992. FOR FURTHER INFORMATION ON THIS ACT, ENQUIRIES SHOULD BE DIRECTED TO THE DISABILITY SERVICES COMMISSION ON TELEPHONE NUMBER (08) 9426 9200.

SHOULD THE APPLICANT BE AGGRIEVED BY THE DECISION A RIGHT OF APPEAL MAY EXIST UNDER THE PROVISIONS OF THE TOWN PLANNING SCHEME OR THE METROPOLITAN REGION SCHEME.

This approval is valid for a period of TWO years only. If the development is not substantially commenced within this period, a fresh approval must be obtained before commencing or continuing the development.

DATE OF DECISION: 4 June 2014

DATE OF ISSUE: 4 June 2014



A/MANAGER
PLANNING AND BUILDING SERVICES

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ENGINEERING SPECIFIC REQUIREMENTS

The following requirements are also applicable to the above development, in addition to the planning conditions contained in the attached Approval to Commence Development Serial No. 5.2014.124.1:

- (1) The car parking area(s) which form part of this approval shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner/occupier to the satisfaction of the City.
- (2) **A Road and Verge security bond for the sum of \$850** shall be lodged with the City by the applicant, prior to the issue of a building permit, and will be held until all building/development works have been completed and any disturbance of, or damage to the City's infrastructure, including verge trees, has been repaired/reinstated to the satisfaction of the City's Technical Services Directorate. An application for the refund of the security bond shall be made in writing. The bond is non-transferable.
- (3) All pedestrian access and vehicle driveway/crossover levels shall match into existing verge, footpath and Road levels to the satisfaction of the City's Technical Services Directorate.
- (4) The movement of all path users, with or without disabilities, within the road reserve, shall not be impeded in any way during the course of the building works. This area shall be maintained in a safe and trafficable condition and a continuous path of travel (minimum width 1.5m) shall be maintained for all users **at all times** during construction works. If the safety of the path is compromised resulting from either construction damage or as a result of a temporary obstruction appropriate warning signs (in accordance with AS1742.3) shall be erected. Should a continuous path not be able to be maintained, an 'approved' temporary pedestrian facility suitable for all path users shall be put in place. If a request to erect scaffolding, site fencing etc or if building materials is required to be stored within the road reserve once a formal request has been received, the matter will be assessed by the City and if considered appropriate a permit shall be issued by the City's Ranger Services Section. No permit will be issued if the proposed encroachment into the road reserve is deemed to be inappropriate.
- (5) All storm water produced on the subject land shall be retained on site, by suitable means to the full satisfaction of the City's Technical Services Directorate.
- (6) The City accepts no liability for the relocation of any public utility and/or any other services that may be required as a consequence of this development. The applicant/owner shall ensure that the location of all services is identified prior to submitting an application for a building permit. The cost of relocating any services shall be borne by the applicant/owner.
- (7) A bin store is required to be provided, of sufficient size to accommodate the City's maximum bin requirement, as assessed by the City's Technical Services Directorate.
- (8) Standard 'Visual Truncations', in accordance with the City's Policy 2.2.6 and/or to the satisfaction of the City's Technical Services Directorate are to be provided at the intersection of the road reserve or Right of Way boundary, and all internal vehicle access points to ensure that the safety of pedestrians and other road users is not compromised. Details of all required visual truncations shall be included on the building permit application working drawings.

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ENVIRONMENTAL HEALTH SPECIFIC REQUIREMENTS

The following requirements are also applicable to the above development, in addition to the planning conditions contained in the attached Approval to Commence Development Serial No. 5.2014.124.1:

- (1) The proposed development is satisfactory to the Health Services subject to compliance with the following legislation (as amended)-
 - Health Act 1911 (as amended);
 - Local Government Act 1995;
 - Occupational Safety and Health Act/Regulations (dust control, safe work practices – governed by Worksafe WA);
 - City of Vincent Health Local Law 2004;
 - Metropolitan Water Supply, Sewerage & Drainage Board Local Laws 1981;
 - Food Act 2008;
 - FSANZ Food Standards Code;
 - Liquor Control Act 1988;
 - Tobacco Control Act (provision of break-out areas);
 - Health Act (Carbon Monoxide) Regulations;
 - Environmental Protection Act 1986 (Noise and Unauthorised Discharge Emissions);
 - Sewerage (Lighting, Ventilation and Construction) Regulations 1971;
 - Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974; and
 - Health (Temporary Sanitary Provisions) Regulations 1997.
- (2) *Should an Applicant be dissatisfied with a particular health services condition/s, a written submission detailing reason/s or alternative proposal can be made to the Manager Health Services as soon as practicable but within 14 days of the date of the Building Licence. Such a submission shall not operate as a stay of the condition/s but the submission will be considered and a written decision will be provided within a reasonable period of time - normally within 14 days after receipt.*
- (3) Health Services to be advised upon alterations during construction being proposed and upon completion of construction so that a preliminary and final inspection can be arranged accordingly.
- (4) If it is intended to use the premises as a "public building" as defined in Section 173 of the *Health Act 1911* (as amended) it is necessary to make application for a Certificate of Approval - Maximum Accommodation Notice from the City's Health Services before commencing use of the building as a "public building". A completed **Form 1** application is to be submitted, along with the designated fee – contact the City's Health Services on 9273 6000 for further details.
- (5) An authorised licensed electrical contractor is to certify that all electrical work of the public building conforms to the relevant provisions of the *Health (Public Buildings) Regulations 1992* (as amended), and the *Electricity (Licensing) Regulations 1991*. Certification is to be submitted in the form of a **Form 5** application/certificate of approval – contact the City's Health Services on 9273 6533 for further details.
- (6) A copy of the City of Vincent Health Services publication entitled- "Public Buildings - Guidelines for Owners, Architects & Builders" can be obtained from the City's Health Services on 9273 6533 or via email- mail@vincent.wa.gov.au.

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- (7) Adequate enclosing wall or guard rails shall be provided around the edges of raised or tiered seating and at any change in level which may present a hazard to the public.
- Steps and landings shall be provided with hand rails on each side that is not stepped unless the City of Vincent otherwise approves.
- (8) All public building exits shall be marked with a sign that conforms to AS/NZS 2293.
Exit signs shall be provided as follows:
- (a) Every doorway used as an exit and every passage leading to an exit to be provided with an approved illuminated exit sign placed conspicuously over the doorway or passage;
 - (b) An exit sign that obtains its illumination from a battery charge, battery source or an electrical supply is to be illuminated while the premises are open to or occupied by the public.
 - (c) An illuminated exit sign shall be visible from all floor locations within a public building; and
 - (d) Approved illuminated directional exit signs to be provided in those portions of the public building where the emergency exits are not clearly visible to the public.
- (9) Provide a notice on the external side of any emergency exit which abuts a road, thoroughfare, passageway, lane or right-of-way bearing the words "Emergency Exit" in letters not less than 100mm high and 12mm wide.
- (10) Emergency lighting shall be provided in a public building in accordance with the BCA and AS/NZS 2293 -"Emergency Evacuation Lighting in Buildings".
- (11) The premises are to be equipped with lights sufficient to illuminate the exterior exits and passages leading to public thoroughfares. Such lights are to-
- (a) have a minimum horizontal illuminance of one (1) lux;
 - (b) be illuminated at all times when the premises are open to the public.
- (12) Every classroom, lecture theatre, drawing room, laboratory, manual training room, assembly hall or any other teaching area shall be provided with an artificial lighting system capable of providing the illumination recommended in relation to such an area under Australian Standard 1680 -"Code of Practice for Interior Lighting and the Visual Environment". Luminaries in gymnasiums, recreation facilities shall be so designed and placed to provide protection against damage from normal activities in such an area.
- (13) All exit doors, barriers and gates in a public building are to open outwards, in the direction of egress, except where automatic sliding doors are provided. Sliding doors shall only be provided where the building can accommodate no more than 50 persons. Sliding doors shall be provided with a manual override button in case of electronic failure. A building with only 1 designated exit shall accommodate no more than 50 persons.
- (14) Except where sliding exit doors are provided exit doors in any public building that is intended to accommodate less than 400 persons shall be fitted with-
- spagnolette central handle bolts;
 - automatic panic bolts; and
 - strap bolts.
- (15) Separate dressing rooms, water closets and hand wash basins to be provided for both male and female performers.

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- (16) An electric fan, other than ceiling fans, in any area of a public building to which members of the public have access shall be installed in a permanent position and so that the blades of the fan are-
- not less than 2000mm above floor level; and
 - protected by a robust guard
- (17) A ceiling fan in a public building shall be installed so that the blades are not less than 2400mm above the floor level unless the blades are protected by guards that prevent accidental contact with them.
- (18) Heating devices to be as follows:
- (a) Radiant electrical heater provided in a public area of a public building shall be installed in a fixed position. Every part of the heating element is to be not less than 2100mm from the level of the floor and not less than 600 mm from any ceiling that is made of a combustible material.
- (b) Any oil, fuel or electrical fan type heater shall be fitted with over temperature protection.
- (19) An electricity generator in a public building shall be placed under the control of a competent person;
- (a) Any room in which an electricity generator is installed shall not be used for the storage of combustible materials other than those directly required for the generator;
- (b) The fuel facilities for an electricity generator shall conform to the requirements of Australian Standard AS1940 - "Storage and Handling of Flammable and Combustible Liquids" unless otherwise provided by a written law;
- (c) Any room holding an electricity generator shall be ventilated so that-
- exhaust gases of the plant are conducted to outside air in such a manner as to prevent contamination of any air intake systems of the public building; and
 - explosive concentration of gas or vapour or both cannot occur.
- (d) Where ventilation for a room housing an electricity generator is provided by mechanical means the ventilator shall not be turned off while the electricity generator is operating.
- (e)
- (20) The applicant to provide Certification from the Mechanical Services Consultant or Installation Contractor that the mechanical services, as installed, will ventilate the premises in accordance with Regulation 4 of the *Health (Public Buildings) Regulations 1992* (as amended).
- (21) An Emergency Evacuation plan to be prepared and submitted and endorsed by the Fire Emergency Services Association (FESA) and the City's Health Services prior to opening the premises. The plan is to comply with Australian Standard 3745-1995 - "Emergency Control Organisation and Procedures for Buildings."
- (22) As the public building or place or part of a public building may assemble 5000 people or more a Risk Management Plan is to be developed in accordance with AS/NZS 4360. Furthermore the occupier of the public building shall ensure continual compliance with the Risk Management Plan.
- (23) Applicant must contact the City's Health Services within 28 days from date of Planning Approval to apply for the Registration of the Premises as a Public Building in accordance with the Health (Public Buildings) Regulations 1992.

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Advisory Notes

- (1) Detailed plans and specifications of the public building to be submitted to the City's Health Services for approval prior to any construction or alterations. The plans to include details of –
- (a) Location of approved exit signs in the Building over all designated exits, directional exit signs where necessary and emergency lighting in accordance with the Building Code of Australia and Australian/New Zealand Standard 2293 – Emergency Evacuation Lighting in Buildings.
 - (b) Areas where normal lighting is dimmed or extinguished shall be provided with permanent effective safety lighting for –
 - Foyers and passages;
 - Floors that are ramped at an inclination steeper than 1 in 12;
 - Main aisles between blocks of fixed seats; and
 - The tread of each step;
 - (c) Provision of approved exit door locks/fittings and the directions in which doors swing (to be in the direction of egress).
 - (d) Provision of hand rails to steps, stairways and any other changes in floor level, which may present a hazard to the public
 - (e) Decorative treatments in the building that are not referred to in the BCA shall be made of non-toxic, fire retardant materials
 - (f) Public Building application incur a fee to vary, alter, construct or amend a Public Building. Contact the City's Health Services to obtain and complete a **Form 1** application, along with payment of the designated fee. Public Building applications will not be progressed until a Form 1 application has been received.
- (2) The applicant to advise of required maximum accommodation numbers (number of patrons permitted at the premises at any one time) for the proposed public building prior to Planning Approval being granted. The factors restricting the maximum accommodation number are as follows;
- Floor Area (calculated at 1 person per 0.85 square metres), in accordance with the *Health (Public Building) Regulations 1992*;
 - Sanitary Provisions (WC's, Hand basins and Urinals), in accordance with the *Health (Public Building) Regulations 1992*;
 - Exit width and designated exit provisions in accordance with the *Health (Public Building) Regulations 1992*;
 - Parking provisions under the City's Town Planning Scheme, No.1 (calculated at 1 person per 1.0 square metre).

NOTE: Due to the discrepancy that exists between the *Health (Public Building) Regulations 1992* (a) 1 person per 0.85 square metres, and the City's Town Planning Scheme No. 1; (b) 1 person 1.0 square metre; CARE must be taken in arriving at, and stipulating the required maximum accommodation number for the premises in your application. E.g. for a premises with a publicly accessible floor area of 500 square metres the maximum accommodation number would be calculated as **575** persons, in accordance with the *Health (Public Building) Regulations 1992*, but only **500** persons in accordance with the City's Town Planning Scheme No. 1. The application needs to be cognisant of the limiting factor (planning requirements) when establishing maximum numbers.

- 9 -

BUILDING SPECIFIC REQUIREMENTS

The following requirements are also applicable to the above development, in addition to the planning conditions contained in the attached Approval to Commence Development Serial No. 5.2014.124.1:

A Person must not do building work unless a Building Permit is in effect for the building work or in accordance with the Building Act 2011 Part 2, Division 1, s9.

The Applicant shall ensure that all works necessary or reasonable to, or resulting from those proposed building works, are carried out in accordance with the valid Building Permit and attached conditions of both the Planning Approval and the Building Permit.



CITY OF VINCENT

AGENDA

Ordinary Council Meeting 17 November 2020

Time:

**Location: E-Meeting and Administration and
Civic Centre
244 Vincent Street, Leederville**

**David MacLennan
Chief Executive Officer**

ORDINARY COUNCIL MEETING AGENDA

17 NOVEMBER 2020

| | |
|-----|--|
| 9.2 | NO. 305 (LOT: 4, D/P: 1602) FITZGERALD STREET, WEST PERTH - CHANGE OF USE FROM WAREHOUSE TO RECREATION PRIVATE (AMENDMENT TO APPROVED) (UNAUTHORISED EXISTING DEVELOPMENT) |
|-----|--|

Ward: South

- Attachments:
1. Consultation and Location Map [↓](#) 
 2. Development Plans [↓](#) 
 3. Applicant's Supporting Information [↓](#) 
 4. Previous Development Approvals [↓](#) 
 5. Summary of Submissions - Administration's Response [↓](#) 
 6. Summary of Submissions - Applicant Response [↓](#) 
 7. Determination Advice Notes [↓](#) 

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVES the application to amend Development Approval dated 5.2014.124.1 dated 4 June 2014 for Change of Use from Warehouse to Recreation Private (Amendment to Approved) at No. 305 (Lot: 4; D/P: 1602) Fitzgerald Street, West Perth, in accordance with the plans shown in Attachment 2, subject to the following and with the associated determination advice notes included in Attachment 7:

1. All conditions and requirements detailed on development approval 5.2014.124.1 dated 4 June 2014 continue apply to this approval, except as follows:
 - 1.1 Condition 2 is deleted;
 - 1.2 Condition 3 is deleted and replaced with:
 - 1.2.1 The maximum total number of clients shall be limited to twenty (20) at any one time;
 - 1.3 Condition 4 is deleted and replaced with:
 4. Hours of Operation
 - 4.1 Prior to the provision of the amended Noise Management Plan in satisfaction of Condition 8 below, the hours of operation shall be limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday; and
 - 4.2 Upon provision of the amended Noise Management Plan to the City in satisfaction of Condition 8 below, the hours of operation shall be limited to 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
 - 1.4 Condition 8 is added:
 8. Noise Management Plan
 - 8.1 Within 28 days of the issue of this approval, the Applicant must engage a suitably qualified acoustic consultant to:
 - (a) Review the Fibre Active West Noise Management Plan dated 26 October 2020 (NMP) submitted with this application to ascertain whether the measures specified in the NMP are sufficient to ensure noise emissions from activities at the premises will not exceed the assigned levels specified in the *Environmental Protection (Noise) Regulations 1997* (Assigned Levels) at all times during which the

ORDINARY COUNCIL MEETING AGENDA

17 NOVEMBER 2020

- premises operates, namely 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
- (b) Consider whether any additional measures are required to ensure noise emissions from activities at the premises will not exceed the Assigned Levels at all times during which the premises operates; and
 - (c) Prepare a report which states whether the measures specified in the NMP will ensure noise emissions from activities at the premises will not exceed the Assigned Levels at any time and identifies any additional measures required to ensure noise emissions from activities at the premises do not exceed the Assigned Levels (Report);
- 8.2 Within 35 days of the issue of this approval, provide a copy of the Report (referred to in Condition 8.1(c)) to the City;
- 8.3 Within 42 days of the issue of this approval, provide an amended noise management plan (amended NMP) to the City which incorporates any additional measures specified in the Report and which:
- (a) provides mitigation measures to ensure noise emissions at the premises do not exceed the Assigned Levels at any time during which the premises is operating, namely 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
 - (b) incorporates any additional measures specified in the Report; and
 - (c) a procedure for dealing with complaints and breaches of the amended NMP, to the City's satisfaction; and
- 8.4 All recommended measures in the Report shall be undertaken in accordance with the Report, to the City's satisfaction, prior to the commencement of the hours of operation 5:30am to 6:00am and 9:00am to 8:00pm Monday to Friday and 12:00pm to 5:00pm Saturday as well as the increase of patron numbers to a maximum of 20 during any operating hours, and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers. The use shall at all times operate in compliance with the amended NMP.

PURPOSE OF REPORT:

To consider an application for development approval for an amendment to a previous approval for a Change of Use from Warehouse to Recreation Private (Unauthorised Existing Development) at No. 305 Fitzgerald Street, West Perth (subject site).

PROPOSAL:

The subject site is located at No. 305 Fitzgerald Street, West Perth, as shown on the location plan as included as **Attachment 1**.

A Recreation Private use (Gym) has operated at the subject site from August 2013 in accordance with the development application approved by Council at the Ordinary Meeting of Council held on 26 March 2013 and amended application approved by Administration under Delegated Authority on 4 June 2014.

The use is a 'CrossFit Gym' which is a structured high-intensity interval training fitness class under the guidance of a coach with activities consisting of a combination of free weight exercises, skipping and rowing.

The amendments proposed as part of this development application are summarised as follows:

ORDINARY COUNCIL MEETING AGENDA

17 NOVEMBER 2020

Occupancy Numbers

The proposed development application seeks to increase the number of occupants on-site at any given time. The Gym currently operates in accordance with Conditions 2 and 3 of the previous approval that provides the following occupancy numbers:

2. *The maximum total number of employees shall be limited to five (5) at any one time*
3. *The maximum total number of clients shall be limited to fifteen (15) at any one time.*

The application proposes to delete Condition 2 relating to the maximum number of employees and proposes to amend Condition 3 relating to the maximum number of clients, to allow a maximum of 20 clients on-site at any one time.

Operating Hours

The proposed development application seeks an amendment to the previously approved operating hours to broaden the usage of the facility. The use currently operates in accordance with Condition 4 of the previous approval that provides the following operating hours:

2. *The hours of operation shall be limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday, inclusive and accordingly, the classes shall be scheduled to allow a 15 minute interval between classes to enable sufficient time for patrons to arrive and leave the facility.*

The application proposes to amend Condition 4 relating to the hours of operation to:

- (a) Allow the premises to operate from 5:30am to 8:00pm Monday to Friday;
- (b) Allow the premises to operate from 7:00am to 5:00pm on Saturday; and
- (c) Remove the requirement to have a 15 minute interval between classes.

Advertising Signage

The development application also seeks approval for three unauthorised existing signs on the Fitzgerald Street elevation of the building.

All other aspects of the use remain as per the previous approval.

The proposed development plans are included in **Attachment 2**. The supporting information provided by the applicant is included in **Attachment 3**, comprising a summary of the proposed amendments, Parking Management Plan and Noise Management Plan.

BACKGROUND:

| | |
|-----------------------------|--|
| Landowner: | Jedan Holdings Pty Ltd |
| Applicant: | Bjorn Voon |
| Date of Application: | 4 August 2020 |
| Zoning: | MRS: Urban LPS2: Zone: Commercial R Code: N/A |
| Built Form Area: | Activity Corridor |
| Existing Land Use: | Recreation Private |
| Proposed Use Class: | Recreation Private |
| Lot Area: | 354.5m ² |
| Right of Way (ROW): | No |
| Heritage List: | No |

The subject site is bound by Fitzgerald Street to the south-east, Eden Street to the north-west and commercial properties to the north and south. On the opposite side of Fitzgerald Street are commercial developments and on the opposite side of Eden Street are residential developments including Single Houses and Grouped Dwellings.

The subject site and adjoining properties along Fitzgerald Street are zoned Commercial under the City's Local Planning Scheme No. 2 (LPS2) and are within the Activity Corridor as prescribed under the City's

ORDINARY COUNCIL MEETING AGENDA

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Local Planning Policy No. 7.1.1 – Built Form (Built Form Policy). The adjoining properties across Eden Street are zoned Residential R80 under LPS 2 and are within the Residential Built Form Area under the Built Form Policy.

Previous Approvals

At the Ordinary Council Meeting of 26 March 2013 Council approved the proposed change of use from 'Warehouse' to 'Recreation Private'. In accordance with Condition 4 of the approval, the term of approval issued for this application was one year after which time the applicant was required to obtain further development approval.

On 20 March 2014 the applicant lodged a development application seeking approval for the Recreation Private use in perpetuity. Following assessment the application was approved under Delegated Authority on 4 June 2014. Based on the Delegated Authority Register for 2013/2014, the determination was permitted under Delegated Authority. The Delegated Authority Register 2013/2014 did not require amended development applications to be referred back to Council for determination and when advertised the application received less than six written objections.

The Minutes of the 26 March 2013 Ordinary Council Meeting, the 4 June 2014 Delegated Approval Notice and previously approved development plans are included as **Attachment 4**.

Previous Compliance

A compliance investigation commenced in relation to the Gym in May 2020 following a number of complaints that were received in relation to noise, operating hours and vibration impacts from the Gym. The applicant has submitted the proposed development application seeking approval for the change in operation hours and signage in response to the compliance investigation.

The Gym has since altered their morning operating time to start again at 6:00am, in accordance with the previously approved operating hours. The Gym is still however operating a class at 1:00pm Monday to Friday, which is outside the previously approved operating hours. Administration exercised its discretion under Policy No. 4.1.22 – Prosecution and Enforcement to allow the Gym to operate between 9:00am and 5:00pm.

DETAILS:**Summary Assessment**

The table below summarises the planning assessment of the proposal against the provisions of LPS2, Policy No. 7.5.2 – Signs and Advertising (Signs and Advertising Policy), Policy No. 7.5.21 – Sound Attenuation (Sound Attenuation Policy) and Policy No. 7.7.1 – Non-Residential Development Parking Requirements (Non-Residential Development Parking Policy). In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the Detailed Assessment section following from this table.

| Planning Element | Use Permissibility/ Deemed-to-Comply | Previously approved | Requires further Discretion |
|---------------------|--------------------------------------|---------------------|-----------------------------|
| Land Use | | ✓ | |
| Parking | ✓ | | |
| Bicycle Facilities | ✓ | | |
| Operating Hours | ✓ | | |
| Advertising Signage | | | ✓ |
| Sound Attenuation | | | ✓ |

Detailed Assessment

The deemed-to-comply assessment of the element that requires the discretion of Council is as follows:

ORDINARY COUNCIL MEETING AGENDA

17 NOVEMBER 2020

| Advertising Signs | |
|--|-------------------------------|
| Deemed-to-Comply Standard | Proposal |
| Policy No. 7.5.2 – Signs and Advertising | |
| Two wall signs permitted | Three wall signs proposed. |
| Sound Attenuation | |
| Deemed-to-Comply Standard | Proposal |
| Policy No. 7.5.21 – Sound Attenuation | |
| Acoustic report required for non-residential uses that propose amplified music | Acoustic report not provided. |

The above elements of the proposal that do not meet the specified deemed-to-comply standards are discussed in the comments section below.

CONSULTATION/ADVERTISING:

Community consultation was undertaken in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* for a period of 14 days from 4 September 2020 to 17 September 2020. The method of consultation included website notification and 14 letters being mailed to all the owners and occupiers of the properties adjoining the subject site, as shown in **Attachment 1**.

During the community consultation, the City received a total of 98 submissions, including five objections and 93 letters of support. The concerns raised are summarised as follows:

- Dropping of weights, music and yelling of trainers causes excessive noise and vibration which impacts the amenity of adjoining properties;
- Noise issues from the premises have been ongoing for a number of years; and
- The noise management measures proposed have not been verified.

The submissions received during the consultation period are summarised with their relative locations in the table below.

| Submissions received during the advertising period | Within 100 metres of subject site | More than 100 metres from subject site | All submissions |
|--|-----------------------------------|--|-----------------|
| SUPPORT | 5.1% | 89.8% | 94.9% |
| OBJECT | 5.1% | 0% | 5.1% |
| OTHER (not stated/no opinion) | N/A | N/A | N/A |

A summary of submissions and Administration's response is provided in **Attachment 5**. The Applicants response to the summary of submissions is included in **Attachment 6**.

Design Review Panel (DRP):

Referred to DRP: No

The application did not require referral to the DRP given there are no internal or external works proposed, with the exception of advertising signage.

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Local Planning Scheme No. 2;
- Policy No. 4.1.5 – Community Consultation;
- Policy No. 7.5.2 – Signs and Advertising;
- Policy No. 7.5.21 – Sound Attenuation; and
- Policy No. 7.7.1 – Non-Residential Development Parking Requirements.

ORDINARY COUNCIL MEETING AGENDA

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Planning and Development Act 2005

In accordance with Schedule 2, Clause 76(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Part 14 of the *Planning and Development Act 2005*, the applicant would have the right to apply to the State Administrative Tribunal for a review of Council's determination.

Delegation to Determine Applications:

The application is being referred to Council for determination in accordance with the City's Register of Delegations, Authorisations and Appointments. The application proposes to amend a development approval previously determined by Council that impacts the conditions imposed.

RISK MANAGEMENT IMPLICATIONS:

Low: There are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Innovative and Accountable

We are open and accountable to an engaged community.

SUSTAINABILITY IMPLICATIONS:

The City has considered the application against the Environmentally Sustainable Design Provisions of the City's Policy No. 7.1.1 – Built Form, which is informed by the key sustainability outcomes of the City's Sustainable Environment Strategy 2019-2024.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:Car Parking

The following proposed amendments to previous conditions of approval would impact on car parking provisions and are discussed below:

- The proposed deletion of Condition 2 relating to the maximum number of employees permitted on-site at any given time;
- The proposed amendment to Condition 3 relating to the maximum number of clients, to allow a maximum of 20 clients on-site at any one time; and
- The proposed amendment of Condition 4 of the previous development approval to remove the requirement for a 15-minute interval to be provided between classes.

Applicant Justification

The Applicant has provided written justification and a Parking Management Plan in support of the proposed amendments to conditions, as included in **Attachment 3**. The Applicant's justification for the amendments is summarised below:

- The condition relating to the removal of the requirement for intervals between classes is not considered to be valid and applicable given the requirement for an interval is not referenced in any of the City's planning policies;
- Sufficient parking is provided in the locality to accommodate the use. As sufficient parking exists, the interval period is considered unreasonable in the context of class scheduling;

ORDINARY COUNCIL MEETING AGENDA

17 NOVEMBER 2020

- The site is within close proximity to alternative transport including high frequency bus routes and pedestrian and cycle pathways. The use of these alternative methods would be encouraged by the owner; and
- Classes are not open to the public and must be reserved online, which provides certainty to the numbers attending the class.

Previous Approvals and Policy Requirements

In accordance with the Non-Residential Development Parking Policy, the Gym requires 0.22 car bays per person.

Under the Applicant's justification submitted as included in **Attachment 3**, the Gym proposes a total of 22 people to be on-site at any given time, including 20 clients and two staff, resulting in a requirement for 4.84 car bays to be provided on-site. There are three constructed car-bays on-site accessed from Eden Lane. The proposal results in a car parking shortfall of 1.8 car bays on-site.

Under the 2013 development approval, a car parking shortfall of 2.06 bays was approved, with the requirement for a cash-in-lieu payment of \$7,203. This was based on a total of 11 people being on-site at any one time.

Under the 2014 amended development approval an additional parking shortfall of 1.66 bays was approved with no additional requirement for cash-in-lieu contributions. This was based on a total of 20 people being on-site at any one time.

A total shortfall of 3.72 bays has been previously approved for the Gym under the 2013 and 2014 development approvals.

The City's Non-Residential Development Parking Policy came into effect in March 2018 that applied revised parking requirements for Recreation Private. While occupancy numbers have increased on-site, the revised parking provisions for Recreation Private under the current policy do not result in additional parking requirements for the site.

Based on the current policy and occupancy numbers, the development does not provide a further parking shortfall than that previously approved.

Administration Comments

The removal of Condition 2 relating to a limit on employees permitted on-site at any one time; the amendment to Condition 3 relating to the maximum number of clients increasing by five people; and the removal of the requirement for a 15 minute interval to be provided between classes is suitable for the following reasons:

- Administration did not receive community consultation objections in relation to car parking and the proposed condition modifications. The City received a number of support letters that highlighted car parking within the area is sufficient for members;
- The development does not result in a further shortfall to the previously approved parking shortfall;
- After seven years of operation, the Gym has demonstrated that the parking for the use does not have a detrimental impact on traffic or parking for residents or business in the area. The City has not received any complaints relating to car parking since the use commenced operation;
- The purpose of the Condition requiring intervals between classes was to ensure clients could leave the premises prior to new classes commencing to assist with car parking availability. There are a number of on-street parking options within close proximity of the subject site which can suitably accommodate parking without the need for intervals between classes, including:
 - 16 bays along Eden Street between Bulwer Street and Vincent Street (no time restrictions applicable);
 - 10 bays along Fitzgerald Street between Bulwer Street and Vincent Street (only time restrictions relate to bus lanes. No parking permitted between 6:30am – 9:00am heading south. No parking permitted between 4:30pm – 6:00pm heading north);
 - 36 bays along Bulwer Street between Fitzgerald Street and Vincent Street (2 hour time restriction between 8:00am and 5:30pm);
- The development provides four short term bicycle bays and can provide long term bicycle bays within the premises. End of trip facilities have been provided to accommodate visitors accessing the

ORDINARY COUNCIL MEETING AGENDA

17 NOVEMBER 2020

development by cycling. There are dedicated cycle lanes on both sides of Bulwer Street and in addition there are footpaths provided on both sides of Fitzgerald Street, Eden Street and Vincent Street;

- The subject site is well serviced by public transport being located on a high frequency bus route along Fitzgerald Street; and
- There is minimal risk removing the condition requiring a number of staff on-site as the Applicant's written justification details that two staff would be expected to be on-site at any given time. It is not expected that the number of staff would substantially increase given the client numbers proposed. It is likely that staff, if driving to work, would park within the on-site bays.

Sufficient on-site parking is provided for staff of the development and there is sufficient alternative transport methods and public parking within the vicinity of the subject site to accommodate any customer parking demand. The amendments as proposed meet the objectives of the Non-Residential Development Parking Policy and are supported.

Signage

The City's Policy No. 7.5.2 – Signs and Advertising (Signs and Advertising Policy) permits a maximum of two wall signs per tenancy. The development application seeks approval for three unauthorised existing wall signs to the Fitzgerald Street elevation.

The City did not receive specific community submissions relating to the proposed advertising signage. The proposal is consistent with the objectives of the Signs and Advertising Policy as follows:

- The signage provided meets the permitted dimensions and area as prescribed in the Signs and Advertising Policy;
- The scale and design of the signage is appropriate to the building and the architectural detailing to which it relates. The additional signage does not result in a proliferation of signage;
- As two of the signs are white in colour and attached to a white wall, the signage does not dominate the streetscape;
- The scale and design of the signage is compatible with the existing surrounding development and the size and colours of the sign are appropriate with the area; and
- The proposal ensures that the signage does not adversely impact the amenity of the surrounding properties, while providing appropriate exposure of the proposed use.

Noise Management

Proposed Amendments

The application seeks approval for additional operating hours to broaden the use of the Gym. The use currently operates in accordance with Condition 4 of the previous approval that provides the following operating hours:

4. *The hours of operation shall be limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday, inclusive and accordingly, the classes shall be scheduled to allow a 15 minute interval between classes to enable sufficient time for patrons to arrive and leave the facility.*

The additional operating hours to be considered as part of this application are:

- Monday to Friday 5:30am – 6:00am;
- Monday to Friday 9:00am – 5:00pm; and
- Saturday 12:00pm – 5:00pm.

Policy Requirements

The City does not have any Local Planning Policies that outline requirements for operating hours for Recreation Private uses but the City's Sound Attenuation Policy requires development applications for non-residential uses that involve amplified music to be accompanied by an acoustic report.

The previous development applications for the use were approved without any acoustic report or noise management plan in support of the use.

ORDINARY COUNCIL MEETING AGENDA

17 NOVEMBER 2020

Proposed Noise Mitigation Measures

The applicant has not provided an acoustic report prepared by an Acoustic Consultant/Engineer in support of the proposed additional operating hours and is seeking a variation to the Sound Attenuation Policy.

The Applicant has provided a Noise Management Plan and written justification to address the management of noise generated on site for the additional operating hours proposed. The proposed Noise Management Plan is included in **Attachment 3** and proposes the following measures:

- The use of rubber mats when certain weights may be dropped. The use of mats are for movements where there is a possibility that barbells may be dropped;
- Requirements for barbells and weights to be under control. The noise management plan states the only time weights will be dropped is when a person cannot safely control the weight;
- Implementation of volume control levels for different times of the day;
- Noise mitigation measures for amplified music, voice levels and the opening of roller door for different parts of the day; and
- Contact details of the Gym owner provided to all surrounding properties to assist in quick response to noise matters.

In addition to the Noise Management Plan measures proposed, the use would still be required to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.

Administration Comments

The Noise Management Plan has not been prepared or verified by an acoustic consultant, as such, there is no evidence to confirm the mitigation measures will be effective to control the noise emitted from activities at the venue, or that the activities comply with the *Environmental Protection (Noise) Regulations 1997*. Since July 2020, Administration have consistently recommended the applicant engage the services of a noise specialist/acoustic consultant to provide them certainty around the proposal.

Administration consider the proposed noise management strategies will go some way to mitigating the impact of activities from the Gym, so long as the Gym rules are administered and any breaches of those rules are investigated.

The Noise Management Plan provides a commitment for the applicant to comply with what has been written within the Plan. The Noise Management Plan is a daily tool which would be used to manage the Gym. The Noise Management Plan would also provide more assurance to the adjoining neighbours that the gym would control its activities on a daily basis in an appropriate manner.

It has been identified that additional measures could be included within the Noise Management Plan to better manage the activities of the Gym. Administration recommends a condition of development approval requiring an amended Noise Management Plan be submitted to the satisfaction of the City outlining measures that will be implemented to address any complaints or breaches to the Plan's requirements and the compliance measures that will be undertaken where breaches of these requirements are identified. This requirement would assist to minimise the impact of noise on surrounding residents and tenancies.

The applicant has suggested the measures have been tested with the adjoining properties but not by a technical expert. Administration sought legal advice in relation to whether it would be reasonable to enforce a condition of approval requiring the Noise Management Plan to be reviewed by an acoustic consultant. This requirement would confirm that the management strategies would be effective in protecting the amenity of occupants in the surrounding properties from the impacts of noise and that they would achieve compliance with the assigned levels of the *Environmental Protection (Noise) Regulations 1997* (the Noise Regulations) for all hours of operation.

Legal advice received confirmed that it would be reasonable to require a technical review by an acoustic consultant as the City has received a number of complaints about noise and vibration and as the proposal is also significantly increasing the intensity of the discretionary land use. This is for amenity purposes and is irrespective of the need for the applicant to comply with the Noise Regulations.

The legal advice also confirmed that it is orderly and proper to impose noise management measures through the noise management plan for the entire operation of the land use and not just the operating hours proposed through the amendment.

ORDINARY COUNCIL MEETING AGENDA**17 NOVEMBER 2020**

As such, in response to a number of complaints received in relation to noise and vibration, Administration has recommended a condition of approval requiring a technical review to be undertaken by an acoustic consultant that demonstrates that the noise management strategies set out in the Noise Management Plan would be effective in meeting the assigned levels of the Noise Regulations.

The technical review would provide assurance to both the City and neighbouring properties that the measures implemented by the Noise Management Plan would be effective in mitigating the impact of noise to not adversely impact the amenity and comfort of surrounding properties.

An advice note has also been recommended regarding the requirement to have ongoing compliance with the Regulations. The operation is required to comply at all times with all aspects of the Regulations, irrespective of what conditions are imposed on the development approval. Should the City receive a justified complaint regarding unreasonable noise or vibration from the venue, the City's Authorised Officers would investigate and take necessary action according to the Regulations.

If the application is approved by Council the City's Compliance Services team would follow up the compliance with the Noise Management Plan related conditions to ensure they are met within the specified timeframes and that the recommendations as provided within the Noise Management Plan are implemented.

The proposed amendment to the approval is supported, subject to the recommended conditions relating to the Noise Management Plan.



CITY OF VINCENT

MINUTES

Ordinary Council Meeting

17 November 2020

ORDINARY COUNCIL MEETING MINUTES

17 NOVEMBER 2020

At 7.15pm Cr Joshua Topelberg left the meeting

9.2 NO. 305 (LOT: 4, D/P: 1602) FITZGERALD STREET, WEST PERTH - CHANGE OF USE FROM WAREHOUSE TO RECREATION PRIVATE (AMENDMENT TO APPROVED) (UNAUTHORISED EXISTING DEVELOPMENT)

Ward: South

- Attachments:**
1. Consultation and Location Map [↓](#) 
 2. Development Plans [↓](#) 
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 5. Summary of Submissions - Administration's Response [↓](#) 
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 7. Determination Advice Notes [↓](#) 

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, **APPROVES** the application to amend Development Approval dated 5.2014.124.1 dated 4 June 2014 for Change of Use from Warehouse to Recreation Private (Amendment to Approved) at No. 305 (Lot: 4; D/P: 1602) Fitzgerald Street, West Perth, in accordance with the plans shown in Attachment 2, subject to the following and with the associated determination advice notes included in Attachment 7:

1. All conditions and requirements detailed on development approval 5.2014.124.1 dated 4 June 2014 continue apply to this approval, except as follows:
 - 1.1 Condition 2 is deleted;
 - 1.2 Condition 3 is deleted and replaced with:
 - 1.2.1 The maximum total number of clients shall be limited to twenty (20) at any one time;
 - 1.3 Condition 4 is deleted and replaced with:
 4. Hours of Operation
 - 4.1 Prior to the provision of the amended Noise Management Plan in satisfaction of Condition 8 below, the hours of operation shall be limited to 6:00am to 9:00am and 5:00pm to 8:00pm Monday to Friday and 7:00am to 12:00pm Saturday; and
 - 4.2 Upon provision of the amended Noise Management Plan to the City in satisfaction of Condition 8 below, the hours of operation shall be limited to 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
 - 1.4 Condition 8 is added:
 8. Noise Management Plan
 - 8.1 Within 28 days of the issue of this approval, the Applicant must engage a suitably qualified acoustic consultant to:
 - (a) Review the Fibre Active West Noise Management Plan dated 26 October 2020 (NMP) submitted with this application to ascertain whether the measures specified in the NMP are sufficient to ensure noise emissions from activities at the premises will not exceed the assigned levels specified in the *Environmental Protection (Noise) Regulations 1997 (Assigned Levels)* at all times during which the premises operates, namely 5:30am to 8:00pm Monday to Friday and

7:00am to 5:00pm Saturday;

- (b) Consider whether any additional measures are required to ensure noise emissions from activities at the premises will not exceed the Assigned Levels at all times during which the premises operates; and
 - (c) Prepare a report which states whether the measures specified in the NMP will ensure noise emissions from activities at the premises will not exceed the Assigned Levels at any time and identifies any additional measures required to ensure noise emissions from activities at the premises do not exceed the Assigned Levels (Report);
- 8.2 Within 35 days of the issue of this approval, provide a copy of the Report (referred to in Condition 8.1(c)) to the City;
- 8.3 Within 42 days of the issue of this approval, provide an amended noise management plan (amended NMP) to the City which incorporates any additional measures specified in the Report and which:
- (a) provides mitigation measures to ensure noise emissions at the premises do not exceed the Assigned Levels at any time during which the premises is operating, namely 5:30am to 8:00pm Monday to Friday and 7:00am to 5:00pm Saturday;
 - (b) incorporates any additional measures specified in the Report; and
 - (c) a procedure for dealing with complaints and breaches of the amended NMP, to the City's satisfaction; and
- 8.4 All recommended measures in the Report shall be undertaken in accordance with the Report, to the City's satisfaction, prior to the commencement of the hours of operation 5:30am to 6:00am and 9:00am to 8:00pm Monday to Friday and 12:00pm to 5:00pm Saturday as well as the increase of patron numbers to a maximum of 20 during any operating hours, and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers. The use shall at all times operate in compliance with the amended NMP.

Moved: Cr Loden, Seconded: Cr Castle

That the recommendation be adopted.

COUNCIL DECISION ITEM 9.2

Moved: Cr Wallace, Seconded: Cr Fotakis

That the motion be deferred.

CARRIED (5-2)

For: Mayor Cole, Cr Fotakis, Cr Loden, Cr Smith and Cr Wallace

Against: Cr Gontaszewski and Cr Castle

(Cr Topelberg was absent from the Council Chamber and did not vote)

(Cr Hallett was an apology for the Meeting.)

REASON:

Council requires the provision of an acoustic report that addresses noise and vibration from the applicant, and proposed measures in response to the recommendation therein.

ORDINARY COUNCIL MEETING MINUTES

17 NOVEMBER 2020

At 7:35 pm, Cr Joshua Topelberg returned to the meeting.

Summary of Submissions:

The tables below summarise the comments received during both advertising periods for the proposal, together with the Administration's response to each comment.

| Comments Received in Support: | Administration Comment: |
|--|--|
| <ul style="list-style-type: none"> • Support for the amended operating times. The range in operating times proposed allows for greater flexibility/work life balance for the surrounding residents nearby and members from other areas. The proposal to allow members to train at 5:30am before works is crucial as some residents cannot go to the gym after work; • The gym will lose a number of members if they cannot train at 5:30am; • The midday classes allow office workers a break during the day and a stress relief; • The gym is part of the community and is a social hub and support network for many people providing them with a way to be healthy and fit, both mentally and physically; • The gym has actively been reducing the noise impacts to the surrounding properties including providing thick rubber mats to prevent barbells from making noise when they are dropped and playing no/soft music in the mornings; • Since complaints were received, the coaches and members have been very considerate of noise levels by following the noise management plan to ensure neighbouring residents are not impacted. Members would continue to do this to ensure the gym can still operate; • The gym is located in appropriately zoned commercial strip on a major arterial road, being exactly the kind of location the City should be encouraging for this kind of use. Fitzgerald Street is not a residential area and shouldn't be treated like one - this is a great thriving business that the community should support and prioritise; • Local cafes and businesses benefit from the gym especially on the weekends due to the social aspect of the gym; • The gym is a specialist training centre not seen anywhere else in the surrounding area; • Given that there is a 24 hour service station just two doors down and a yoga studio across the road starting classes at 5:45am and their last class finishes at 9:00pm, the requested variation is consistent with other local businesses nearby; • Never had issues with parking around the gym. Parking near Hyde Park provides additional parking when there is none at the gym. The gym is very conveniently placed with plenty of places to park for free; • Most members walk, cycle or use public transport as they live close or they come from work in the City; | <p>Comments received in support are noted by Administration.</p> |

Summary of Submissions:

| Comments Received in Support: | Administration Comment: |
|--|---|
| <ul style="list-style-type: none"> • Small businesses in the area benefit from the gym (restaurants, cafes, shops, service stations etc). In the post COVID times we must support small businesses where we have the power to do so. Being seen to be doing otherwise is harmful and damaging; • The use is supported by surrounding businesses including Munro's and Circles which frequent the gym; and • Would prefer there not be a 15-minute gap between classes as it would prevent the members from socialising between classes. Members have a bit of chat / catch-up with the people in the previous class. Having the classes directly flow on from each other allows more socialisation and makes the gym more of a community. | |
| <p>Comments Received in Objection:</p> <p>The following comments were received following the submission of the Noise and Vibration Assessment Report (second consultation):</p> <ul style="list-style-type: none"> • The acoustic report confirms that the gym land use is not workable in this premises, regardless of measures proposed to ameliorate its impact; • Impacts from noise and vibration affect the general wellbeing, ability to concentrate and workplace amenity of adjoining properties; • This is a high intensity, heavy weight gym with little to no acoustic treatment; • Noise and vibration caused from the gym is resulting tenants vacating adjoining properties, resulting in loss of income; • Gym is not appropriate within this quiet residential / commercial area and should move to an industrial area; • The extreme noise and vibration is very distressing and is affecting work and living environments of adjoining properties; • The gym has been non-compliant with conditions of their current approval including having up to 40 people in the studio; • There is constant yelling, dropping of weights and using Eden Street as part of the training, which is very dangerous; • Operating hours of 86 hours a week is too much; • The adjoining property is a residential home and should be assessed against residential noise requirements; • A deferral with a fixed end date should be carried by Council to allow the applicant a chance to buy or loan a small quantity of the proposed flooring so that it can be tested. A theoretical remedy is not acceptable at this point. | <p>Administration Comment:</p> <p>Responses to objections received have been provided based on topic:</p> <p><u>Noise and Vibration impacts</u></p> <p>Administration acknowledges that activities pertaining to the gym have resulted in adverse noise and vibration impacts to the adjoining properties based on current site conditions.</p> <p>The applicant has submitted a Noise and Vibration Assessment Report that provides recommendations that would mitigate impacts of noise and vibration to adjoining properties.</p> <p>If approved under this development application, the measures recommended would apply to the existing operating hours as well as the proposed additional operating hours.</p> <p>Administration has recommended a condition of development approval (Condition 8 refers) that provides steps in which the applicant must follow before the new operating hours and increased patron numbers could commence.</p> <p>Satisfaction of this condition would ensure that noise levels generated from the premises would comply with the relevant assigned noise levels under the <i>Environmental Protection (Noise) Regulations 1997</i> and vibration levels would comply with relevant standards, for the previously approved operating hours as well as the additional operating hours proposed.</p> |

Summary of Submissions:

| Comments Received in Objection: | Administration Comment: |
|--|--|
| <ul style="list-style-type: none"> • A time limited approval with requirement should be imposed to reassess the noise and vibration impact after the acoustic recommendations have been implemented; • A condition should be applied for a noise management plan to be provided that includes the ability for the City to shutdown the gym if they operate outside of their agreed conditions. The applicant has proven to be confrontational when approached about noise and vibration issues. Without a clause in any approval that gives the power to cease the use, once approved, the applicant has proven that they have little regard for their neighbours and know how to play the regulatory framework; • The gym has caused immense anxiety and frustration to the neighbourhood and the immediate vicinity; and • Vibration from the gym is causing damage to adjoining buildings that are over 100 years old. <p>Some submissions received during the second community consultation request the City refer to previous comments provided under the first community consultation period. The following comments were received prior to the submission of the Noise and Vibration Assessment Report (first consultation):</p> <ul style="list-style-type: none"> • Concerns in relation to excessive noise and vibration as a result of weights being dropped and the impact on adjoining properties; • Neighbours have attempted to resolve previous noise complaints with no assistance from the gym owners; • Noise issues have been ongoing since 2014; • A number of tenants at adjoining properties have been lost over the years as a result of the noise and vibration emanating from the gym. This results in loss of rent due to the need to terminate leases; • The Noise Management Plan suggests that 40mm mats are suitable to contain the noise and vibration of heavy weights being dropped from shoulder height and 2 x 40mm mats is suitable to absorb the impact from above head height. The impact of this proposed solution needs to be proven with a controlled demonstration, witnessed by the City in each of the adjoining properties that have expressed concern before the Management Plan should be agreed; | <p>The Noise and Vibration Assessment Report and future Noise and Vibration Management Plan provides assurance to both the City and neighbouring properties that the mitigation measures implemented, including building upgrades and management measures, would be effective in mitigating the impact of noise and vibration to not adversely impact the amenity and comfort of surrounding properties.</p> <p>The use would need to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> at all times, irrespective of any conditions imposed on the development application. This further safeguards the requirement to always comply with the assigned levels.</p> <p><u>Assessment of noise to adjoining properties</u></p> <p><u>No. 301 Fitzgerald Street</u></p> <p>Noise and vibration from the site were tested to the nearest commercial premises, being No. 301 Fitzgerald Street, West Perth. Testing was completed from inside the office at this property.</p> <p>This property was assessed against the applicable criteria for noise received at a commercial premise under the <i>Environmental Protection (Noise) Regulations 1997</i>. This is on the basis that it currently operates as an office and photography studio and is located within the Commercial zone under LPS2.</p> <p>The adjoining property has predominately been operated as a commercial premises for more than 20 years. The last approval issued for No. 301 Fitzgerald Street was in 2000 for Alternatives and Additions to Commercial Premises (office).</p> <p>A temporary Change of Use from Commercial to Residential (under the City's COVID-19 temporary planning exemptions) was confirmed in writing by the owner in May 2020. The landowner did not fulfil the terms for these exemptions and did not apply for a Building Approval Certificate for the change of classification to residential.</p> |

Summary of Submissions:

| Comments Received in Objection: | Administration Comment: |
|--|---|
| <ul style="list-style-type: none"> The applicant's submission in relation to the Local Planning Strategy Objectives is misleading in a number of ways. <ul style="list-style-type: none"> The decision not to alter the existing building has had a detrimental impact on the noise and vibration abatement for the current use and this has been evidenced by ongoing complaints to the current and previous owner / operator of the business. This is not a plus- it is just evidence of the operator avoiding making appropriate modifications to suit the intended occupancy. The Objectives highlight that the business should be self-contained, which it is not. The business frequently instructs its clients to run laps around Fitzgerald & Eden Streets which has an impact on the local amenity and a sense of the locality being dominated by this one business; The health benefits of gym attendance are not disputed, but the health impact of the constant noise and vibration issues from this business should also be acknowledged as they are detrimental to the health and wellbeing of the surrounding occupants and/or land owners; The fact that there have been consistent noise complaints from all adjoining occupiers - including across the road on Eden Street – over many years, indicates that despite being located adjacent to one of the busiest roads in the locality, the business has been incapable of operating without causing significant stress and concern to its neighbours. Point 5 on Page 8 of the applicant's noise submission is refuted. It is entirely theoretical. It ignores the reality that the conduct of the patrons of this business is encouraged by the owner and their coaches and they have not been prepared to appropriately invest in noise and vibration mitigation measures to deal with it. This is not about "some level of noise in a commercial locality" - this is about the frequent throwing of heavy weights from above head height onto an inadequate flooring system that is causing vibration and noise to be heard and felt by occupants two properties away. | <p>The tenant confirmed the property had been changed back to an office and store in September 2020.</p> <p>The property could change its use to Residential in the future, either through the City's COVID-19 Temporary Planning Exemptions or through a development application process. Development approval would be needed if a residential use was sought in perpetuity given Single Houses, Grouped Dwellings and Multiple Dwellings are all a 'D' use class under the City's LPS2, meaning these uses are not permitted in perpetuity unless the City has exercised discretion by granting development approval.</p> <p>The property is located within the Commercial zone under LPS2 which seeks to facilitate a wide range of commercial uses that support economic development within the City.</p> <p>Any future residential use introduced to this site would need to be of an understanding that they are located within a Commercial zone where predominantly non-residential uses are located. Any future residential use would need to also acknowledge there is a greater level of amenity impact from traffic, parking, noise and odours associated with non-residential land uses.</p> <p>For these reasons, the Noise and Vibration Assessment Report has accurately assessed this property as a commercial premises.</p> <p><i>No. 23 Eden Street</i></p> <p>Noise and vibration from the site were not tested to the nearest residential property at No. 23 Eden Street, West Perth as indoor access was not granted by the landowners. Measurements could only be taken from outside the premises which do not provide accurate results. The indoor residential prediction figures have instead been estimated based on theoretical models.</p> |

Summary of Submissions:

| Comments Received in Objection: | Administration Comment: |
|--|---|
| <ul style="list-style-type: none"> • The Gyms roller door opens out to Eden Street is open all day during summer or when it is hot & at other times due to more than 15 people in the gym. The yelling of trainers above extremely loud music along with the dropping of weights can be heard from residential properties across the laneway; • Construction work noise is not allowed to start before 7am -5pm & 8am on Saturdays. Why should a gym be any different; • The instructors train patrols up and down the rear laneway, creating noise and safety issues for other road users; • The premises is not large enough to take the proposed additional 5 patrons and 5 trainers. | <p>Administration has recommended an advice note that acoustic testing be undertaken within internal areas of No. 23 Eden Street, West Perth following the installation of the recommended flooring specified in the acoustic report. This would allow for a more accurate understanding of the impact of noise to this property, as well as suitable mitigation measures needed. Administration encourages the landowners of No. 23 Eden Street to be forthcoming in allowing testing to be undertaken from inside their property to ensure that noise measurements can be more accurate and so that it can better inform measures to assist in protecting their property against potential noise and vibration impacts.</p> <p><u>Deferral of the application & time limited condition</u></p> <p>Deferral of the development application or time limited approval is not supported by Administration.</p> <p>It would be unreasonable to require the applicant to install the new flooring, prior to receiving certainty that the additional operating hours would be approved in perpetuity.</p> <p>The applicant would need to install all flooring on-site before further acoustic testing could occur. This is because an accurate acoustic assessment needs to model an entire class with all new flooring in place to ascertain whether additional mitigation measures are required.</p> <p>The requirement for the applicant to comply with recommended Condition 8 removes all risk that the proposed operating hours and patron numbers could commence without modifications being made to the building and new operational requirements put in place to ensure the gym would comply with the relevant assigned noise levels under the <i>Environmental Protection (Noise) Regulations 1997</i>.</p> <p>Administration is satisfied that the location of the gym is acceptable, and that the noise mitigation requirements secured through the conditions of approval recommended would ensure the gym could operate with an acceptable impact to amenity of the area and without the need for the use to be terminated at the end of a time limit.</p> |

Summary of Submissions:

| Comments Received in Objection: | Administration Comment: |
|---------------------------------|---|
| | <p>Any unauthorised activities at the premises are to be dealt with as per the City's Policy No. 4.1.22 – Prosecution and Enforcement. This would provide for a more graduated and proportionate response in taking enforcement action.</p> <p>Administration's recommendation would provide certainty to the applicant that they have received development approval in perpetuity for the additional operating hours and patron numbers sought, while also providing assurance to the City and nearby landowners that the new operating hours and patron numbers cannot increase until sufficient noise and vibration mitigation measures have been installed and verified by a noise consultant.</p> <p><u>Compliance action</u></p> <p>Should the City receive a complaint regarding unreasonable noise from the venue, the City's Authorised Officers would investigate and take necessary action according to the <i>Environmental Protection (Noise) Regulations 1997</i>.</p> <p>Enforcement action would be undertaken in accordance with the City's Policy No. 4.1.22 Prosecution and Enforcement. The way the City takes enforcement action would ultimately depend upon the circumstances of the individual case and the seriousness of the breach. As such, it would not be appropriate for the gym to close each time a complaint was received, without any investigation from the City. Rather, the enforcement response would be proportionate to the circumstances and nature of the non-compliance.</p> <p><u>Construction work noise</u></p> <p>The proposed operation of the gym has been assessed on its own merits and its appropriateness considered based on noise and vibration specific to it. Construction sites are separate types of work with their own noise profile and is not within the scope of this application.</p> <p><u>Running on the carriageway</u></p> <p>An advice note has been recommended advising that running on the carriageway of Eden Street and within the car parking area is not permitted and that all activities relating to the gym should be wholly contained within the building only.</p> |

Summary of Submissions:

| <u>Comments Received in Objection:</u> | <u>Administration Comment:</u> |
|--|---|
| | <p><u>Loss of property value/tenants</u></p> <p>There is no evidence to suggest that vacant tenancies within the area are because of the gym land use.</p> <p><u>Loss of income or impacts to property values are not a relevant planning consideration.</u></p> <p><u>Patron numbers</u></p> <p>In terms of car parking, the development does not result in a further shortfall to the previously approved parking shortfall as a result from the increase in client numbers. After seven years of operation, the Gym has demonstrated that the parking for the use does not have a detrimental impact on traffic or parking for residents or business in the area. The City has not received any complaints relating to car parking since the use commenced operation.</p> <p>Public Building requirements also do not prohibit the occupancy numbers proposed.</p> |

Summary of Submissions:

The tables below summarise the comments received during both advertising periods for the proposal, together with the Applicant's response to each comment.

| Comments Received in Support: | Applicant Comment: |
|--|--|
| <ul style="list-style-type: none"> • Support for the amended operating times. The range in operating times proposed allows for greater flexibility/work life balance for the surrounding residents nearby and members from other areas. The proposal to allow members to train at 5.30am before works is crucial as some residents cannot go to the gym after work. • The gym will lose a number of members if they cannot train at 5:30am; • The midday classes allow office workers a break during the day and a stress relief; • The gym is part of the community and is a social hub and support network for many people providing them with a way to be healthy and fit, both mentally and physically; • The gym has actively been reducing the noise impacts to the surrounding properties including providing thick rubber mats to prevent barbells from making noise when they are dropped and playing no/soft music in the mornings; • Since complaints were received, the coaches and members have been very considerate of noise levels by following the noise management plan to ensure neighbouring residents are not impacted. Members would continue to do this to ensure the gym can still operate; • The gym is located in appropriately zoned commercial strip on a major arterial road, being exactly the kind of location the City should be encouraging for this kind of use. Fitzgerald Street is not a residential area and shouldn't be treated like one - this is a great thriving business that the community should support and prioritise; • Local cafes and businesses benefit from the gym especially on the weekends due to the social aspect of the gym; • The gym is a specialist training centre not seen anywhere else in the surrounding area; • Given that there is a 24 hour service station just two doors down and a yoga studio across the road starting classes at 5.45am and their last class finishes at 9:00pm, the requested variation is consistent with other local businesses nearby; • Never had issues with parking around the gym. Parking near Hyde Park provides additional parking when there is none at the gym. The gym is very conveniently placed with plenty of places to park for free; • Most members walk, cycle or use public transport as they live close or they come from work in the City. | <ul style="list-style-type: none"> • Support for the comments |

Summary of Submissions:

| Comments Received in Support: | Applicant Comment: |
|--|---|
| <ul style="list-style-type: none"> Small businesses in the area benefit from the gym (restaurants, cafes, shops, service stations etc). In the post COVID times we must support small businesses where we have the power to do so. Being seen to be doing otherwise is harmful and damaging; The use is supported by surrounding businesses including Munro's and Circles which frequent the gym; and Would prefer there not be a 15-minute gap between classes as it would prevent the members from socialising between classes. Members have a bit of chat / catch-up with the people in the previous class. Having the classes directly flow on from each other allows more socialisation and makes the gym more of a community. | |
| <p>Comments Received in Objection:</p> <p>The following comments were received following the submission of the Noise and Vibration Assessment Report (second consultation):</p> <ul style="list-style-type: none"> The acoustic report confirms that the gym land use is not workable in this premises, regardless of measures proposed to ameliorate its impact; Impacts from noise and vibration affect the general wellbeing, ability to concentrate and workplace amenity of adjoining properties; This is a high intensity, heavy weight gym with little to no acoustic treatment; Noise and vibration caused from the gym is resulting tenants vacating adjoining properties, resulting in loss of income; Gym is not appropriate within this quiet residential / commercial area and should move to an industrial area; The extreme noise and vibration is very distressing and is affecting work and living environments of adjoining properties; The gym has been non-compliant with conditions of their current approval including having up to 40 people in the studio; There is constant yelling, dropping of weights and using Eden Street as part of the training, which is very dangerous; Operating hours of 86 hours a week is too much; The adjoining property is a residential home and should be assessed against residential noise requirements; A deferral with a fixed end date should be carried by Council to allow the applicant a chance to buy or loan a small quantity of the proposed flooring so that it can be tested. A theoretical remedy is not acceptable at this point; | <p>Applicant Comment:</p> <ul style="list-style-type: none"> The acoustic report does not confirm that at all. Whoever objected with this is reading the wrong report. The testing of weights dropped at Location A that was adjacent to the business was all below the recommended vibrations levels for offices (Page 22). With the right measures and management plan, the impacts can be reduced significantly and we will be within our allowed levels. See comment above. The only impacts are from the owners of the properties and also from the Design Company who are adamant on driving our business out of the area. See comment above. This is untrue. All adjoining properties are tenanted. Commercial areas have relevant levels of sounds and vibration allowances. The statement of "Gym is not appropriate within this quiet area" is a matter of opinion. We have since reduced and controlled all methods of dumping. The use of the word "Extreme" is colourful and excessive. Ever since we were made aware of the conditions of use, we would like to ask for proof that the studio had an event with more than 40 people at once. The use of the phrase "constant yelling" is untrue and without the knowledge of the type of training that we do, dropping of weights is not all dangerous. We were unaware that there was a limit to hours businesses could operate. "too much" is an opinion. |

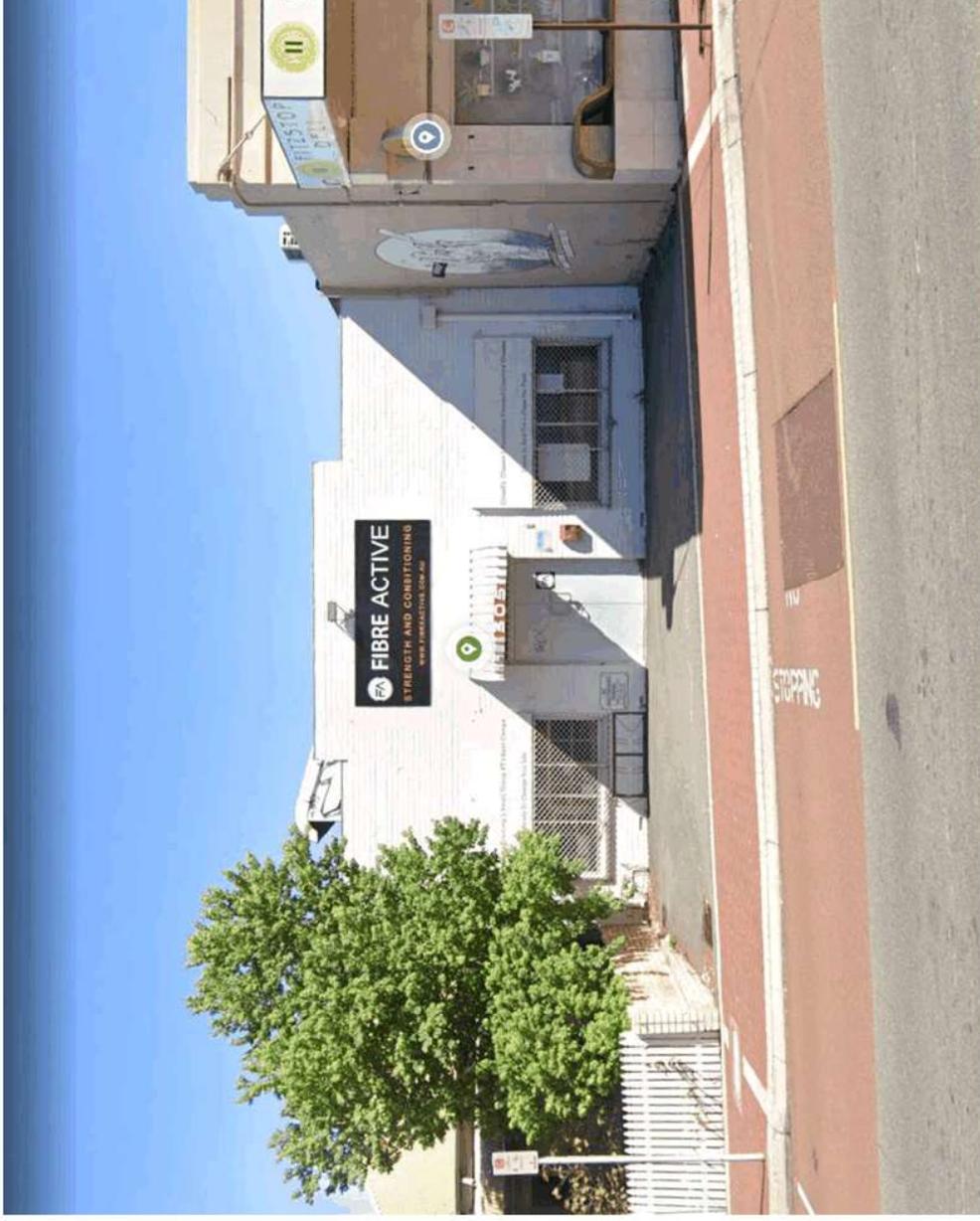
Summary of Submissions:

| Comments Received in Objection: | Applicant Comment: |
|--|--|
| <ul style="list-style-type: none"> • A time limited approval with requirement should be imposed to reassess the noise and vibration impact after the acoustic recommendations have been implemented; • A condition should be applied for a noise management plan to be provided that includes the ability for the City to shutdown the gym if they operate outside of their agreed conditions. The applicant has proven to be confrontational when approached about noise and vibration issues. Without a clause in any approval that gives the power to cease the use, once approved, the applicant has proven that they have little regard for their neighbours and know how to play the regulatory framework; • The gym has caused immense anxiety and frustration to the neighbourhood and the immediate vicinity; and • Vibration from the gym is causing damage to adjoining buildings that are over 100 years old. <p>Some submissions received during the second community consultation request the City refer to previous comments provided under the first community consultation period. The following comments were received prior to the submission of the Noise and Vibration Assessment Report (first consultation):</p> <ul style="list-style-type: none"> • Concerns in relation to excessive noise and vibration as a result of weights being dropped and the impact on adjoining properties; • Neighbours have attempted to resolve previous noise complaints with no assistance from the gym owners; • Noise issues have been ongoing since 2014; • A number of tenants at adjoining properties have been lost over the years as a result of the noise and vibration emanating from the gym. This results in loss of rent due to the need to terminate leases; • The Noise Management Plan suggests that 40mm mats are suitable to contain the noise and vibration of heavy weights being dropped from shoulder height and 2 x 40mm mats is suitable to absorb the impact from above head height. The impact of this proposed solution needs to be proven with a controlled demonstration, witnessed by the City in each of the adjoining properties that have expressed concern before the Management Plan should be agreed; • The applicant's submission in relation to the Local Planning Strategy Objectives is misleading in a number of ways. <ul style="list-style-type: none"> - The decision not to alter the existing building has had a detrimental impact on the noise and vibration abatement for the | <ul style="list-style-type: none"> • Assessments should be fairly measured against allowed levels of designated zoning. As long as the business stays within allowed levels, it should not present as conflict. • This condition to shut the gym down is fair but a fair test is required for this to occur. Those who want this should pay for the testing machines to be installed so as to properly measure the levels that may be considered a breach. • At no point have Fibre and owners been confrontational about the situation. Bjorn has even given his phone number to the resident across the street. This point is a lie. • The residents who have entered our place of business and started yelling at our coaches and members working out have harassed us. We have noted this with council. • The words used in this objection apply only to a handful of people mainly the owners of the residence and adjoining properties and not the neighbourhood. Other additional notes of objections are coerced objections and should be ignored. • Please present evidence of damage to other buildings. This point is a lie. • Please refer to Acoustic Report. The testing of weights dropped at Location A that was adjacent to the business was all below the recommended vibrations levels for offices. • Neighbours have entered the business and yelled profanities at our coaches and patrons. We have been very accommodating to neighbours needs and have been trying our best to work with everyone. • The use of plural in "tenants" is plausible. We know for sure the residential tenants would have moved out when the commercial unit was changed to residential without our knowledge. • Very early on we had the owners of the adjacent building 301 come into the gym to witness the dropping of the weights onto a double matt we had used to reduce the vibration and sound. They agreed that that was acceptable. The owners went on to the first hearing and lied about the use of the mats being a \$5 Knart mats and were unsuitable. • There is no deception in anyway. We are aware of the possible effects of weights dropping, and are doing what we can to minimise the vibrations caused and from the Acoustic Report, we are well within allowed levels. Prior consults with other consultants maintained that there were a few |

Summary of Submissions:

| Comments Received in Objection: | Applicant Comment: |
|--|---|
| <p>current use and this has been evidenced by ongoing complaints to the current and previous owner / operator of the business. This is not a plus- it is just evidence of the operator avoiding making appropriate modifications to suit the intended occupancy;</p> <ul style="list-style-type: none"> - The Objectives highlight that the business should be self-contained, which it is not. The business frequently instructs its clients to run laps around Fitzgerald & Eden Streets which has an impact on the local amenity and a sense of the locality being dominated by this one business; - The health benefits of gym attendance are not disputed, but the health impact of the constant noise and vibration issues from this business should also be acknowledged as they are detrimental to the health and wellbeing of the surrounding occupants and/or land owners; - The fact that there have been consistent noise complaints from all adjoining occupiers - including across the road on Eden Street – over many years, indicates that despite being located adjacent to one of the busiest roads in the locality, the business has been incapable of operating without causing significant stress and concern to its neighbours; • Point 5 on Page 8 of the applicant's noise submission is refuted. It is entirely theoretical. It ignores the reality that the conduct of the patrons of this business is encouraged by the owner and their coaches and they have not been prepared to appropriately invest in noise and vibration mitigation measures to deal with it. This is not about "some level of noise in a commercial locality" - this is about the frequent throwing of heavy weights from above head height onto an inadequate flooring system that is causing vibration and noise to be heard and felt by occupants two properties away; • The Gyms roller door opens out to Eden Street is open all day during summer or when it is hot & at other times due to more than 15 people in the gym. The yelling of trainers above extremely loud music along with the dropping of weights can be heard from residential properties across the laneway; • Construction work noise is not allowed to start before 7am -5pm & 8am on Saturdays. Why should a gym be any different; • The instructors train patrols up and down the rear laneway, creating noise and safety issues for other road users; • The premises are not large enough to take the proposed additional 5 patrons and 5 trainers. | <p>recommendations and methods that we could employ to minimise the vibrations and minimise any costly modifications to the building. The complaints can be sourced back to 3 vocal parties.</p> <ul style="list-style-type: none"> • We have enquired with local council and are allowed to run along the footpath and not along the road (which in some cases will slow down automobiles who tend to accelerate dangerously up the street to cut daily jams). Running outside does not impact on any local amenity. People running around show a healthy community around the area. That comment is ridiculous. • Agree with this. We would like to maintain that based on the Report, we are within our allowed levels. • The business is capable of operating within our allowed levels; perhaps some other occupiers in surrounding areas are too sensitive to the vibrations felt. When it is noticeable and aware of, it becomes a point of focus. • We have sent communications out to coaches, members, posted signs, added this into prestart sessions about dropping and taking precautions with bar-dropping in an extreme attempt to minimise any vibration or drop that can be felt. • Yes, it is a warehouse, we air the gym sometimes. The flow of air is nice. So is natural light. • We are not a construction business or do construction works. This comment is irrelevant. Other gyms around in Vincent also are operational at 5:30AM. Some 247 gyms also operate at all times of the day. • We have instructed our coaches to not yell down the street. This would not have been a problem since the start of 2021. • The road has a 40km/h speed limit, which a majority of users ignore and speed, up the hill like a Hill Climb or sprint. Having people around the road and using the footpaths for running will slow these cars down. Bjorn and some of the coaches have often times used hand gestures to slow cars down from speeding up the lane. • The premises are large enough for proposed numbers. We have thought about the space requirements per member and the space is sufficient. We have been doing this for years. |

Existing signs on-site – March 2021



Determination Advice Notes:

1. This is a development approval issued under the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme only. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/owner to obtain any other necessary approvals and to commence and carry out development in accordance with all other laws.
2. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.
3. Any noise created at the premises must ensure compliance with the provisions within the *Environmental Protection (Noise) Regulations 1997*.
4. All activities relating to the gym shall be contained within the building on the subject site only, noting that activities such as running are not permitted on the Eden Street in accordance with the Trading in Public Places Local Law. If you have any questions regarding this, please contact the City's Ranger Services team on 9273 6000.
5. In reference to Condition 8.2, airborne noise measurements should be measured internally from the adjoining residential property at No. 23 Eden Street West Perth subject to the landowners' consent.
6. In reference to Condition 8.6, the purpose of the Noise and Vibration Management Plan review is to consider whether any additional and/or updated measures are required in response to new noise or vibration issues as identified through complaints received by the City.
7. Any additional signage to that shown on the approved plans requires a development application to be submitted for approval, irrespective of whether the future signage complies with the requirements of the City's Signs and Advertising Policy. A signage strategy should accompany any future application that addresses Standards and Objectives of the City's Signs and Advertising Policy and justifies why additional signage is required.