

**NSLPP MEETING HELD ON 06/12/23****Attachments:**

1. Site Plan
2. Location and Layout Plans
3. Acoustic Report
4. Plan of Management
5. Consent Notice for DA 257/14

**ADDRESS/WARD:** 7/599 Pacific Highway, St Leonards (W)**APPLICATION NO:** DA183/23 (PAN- 338661)**PROPOSAL:** Change of use of premises to an indoor recreation facility (Gym) with hours of operation 5:30am to 8:00pm (Monday to Friday) and 5:30am to 1:00pm (Saturday), no trade Sunday**PLANS REF:**

Plan No.	Rev	Description	Prepared by	Dated
DA01	A	Site Plan Location	SolidVoid	Feb 2023
DA06	B	Ground floor plan and RCP	SolidVoid	Sept 2023
DA07	B	Level 1 floor plan and RCP	SolidVoid	Sept 2023
DA08	B	Section A-A & B-B	SolidVoid	Sept 2023

**OWNER:** Velisha Pty Ltd**APPLICANT:** L Goulimis, Solid Void Design**AUTHOR:** Report of David Hoy, Team Leader Assessments**DATE OF REPORT:** 22 November 2023**DATE LODGED:** 14 June 2023**DATE AMENDED:** 12 October 2023**RECOMMENDATION:** Refusal

## EXECUTIVE SUMMARY

This development application seeks consent for change of use of premises to an indoor recreation facility, being an existing commercial premises within a mixed-use building on land at 7/599 Pacific Highway, St Leonards.

The proposed premises is to operate as personal training gym, with up to 20 people on premises at any one-time, inclusive of 2-3 staff members. The proposed facility is described as a “personal training studio” that is to operate between the hours of 5:30am to 8:00pm Monday to Friday, between 5:30am to 1pm Saturday and closed on Sunday.

**The application is reported to the North Sydney Local Planning Panel for determination as the application has attracted more than 10 submissions by way of objection. A public determination meeting is required in accordance with the Ministers Direction.**

Notification of the proposal has attracted forty two (42) submissions raising particular concerns about Noise and Vibration impacts, early operating Hours, inadequate Statement of Environmental Effects, Inadequate Plan of Management, Inadequate Acoustic Report, Inadequate Access Report and BCA Report based on incorrect NCC Classification, Compliance with preceding consent, availability of numerous existing gyms in close proximity, impact of queues on the pedestrian footpath, Owners Consent not given and failure to comply with By-Laws.

The application is supported by a Plan of Management and an acoustic report which have been considered by Council’s Environmental Health Team. The acoustic report has not demonstrated that the proposed use can comply with required acoustic standards applicable for mixed use buildings noting the construction standard of the building incorporates post-tensioned concrete slabs.

The North Sydney Development Control Plan 2013 provides that the operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background noise level during the day and evening and must not exceed the background level at night when measured at the boundary of the property.

Concern is raised that the submitted acoustic testing, relies upon assumptions made to provide expected noise impacts and has not conducted sufficient insitu recordings to support of recommendations and proposed mitigation measures to be implemented.

Consideration has also been given to the operating restrictions to be imposed under the Plan of Management. These restrictions are however not considered to be sufficient to address acoustic and vibration impacts likely to be experienced within the building.

On the basis that compliance could be achieved with applicable acoustic standards the proposal is considered to be unreasonable in the circumstances. The application is therefore recommended for **refusal**.

**LOCATION MAP**



□ Property/Applicant ● Submitters - Properties Notified

## DESCRIPTION OF PROPOSAL

Development consent is sought for a change of use of premises to an Indoor Recreation Facility.

The proposed facility is to operate as a training gym with up to 20 people on premises, including 2-3 staff members and personal fitness trainers, at any one time. The proposed gym is described as a “*personal training studio*” that is to operate between the hours of 5:30am to 8:00pm Monday to Friday, between 5:30am to 1pm Saturday and closed on Sunday.

The proposed recreation facility is not proposed to provide group fitness classes, child minding, pool facilities, steam or sauna rooms. Training is generally to be provided on a one-on-one basis in small group training sessions.

### Operational

The proposed facility is to include a noise limited stereo and speaker system with or low frequency speakers. Low level background music and sound disabled televisions are to be in operation when the premises is open.

### Gym Equipment and Flooring

The facility is to include both “Pin Loaded” weight machines and “Free Weight” equipment and electronic trainer such as treadmills, spin bikes and climbing machines. The following equipment and features are proposed:

<b>Equipment</b>	<b>Type</b>
1 x versa diverging seated row x1 104 kg	Machine trainer
1 x climbmill X1 147.1kg	Machine trainer
2 x magnum mega half power rack 8ft tall x2 408.5 kg	Railed bar weight machine
1 x versa functional trainer x1 424 kg	Cabled stack weights with pullies
1 x Weight tree	Free weight storage
2 x Concept 2 rowing machines	Machine trainer
3 x 181kg treadmills 181kg	Machine trainer
2 x upright cycle X2 89.1 kg	Machine trainer
1 x leg press x1 490 kg	Railed bar weight machine
2 x matrix spin bike X2	Machine trainer
1 x dumbbell rack	Free weight storage
1 x versa converging chest press 104 kg	cabled stack weights with pullies
2 x combo lat pull seated row x2 278 kg	cabled stack weights with pullies
2 x elliptical suspension machines 181kg	Machine trainer
1 x versa plus combo chin dip assist x1 307 kg	cabled stack weights with pullies
2 x Multi Adjustable Bench 55 KG	Free weight equipment

“Pin Loaded” or cable stack weights are controlled by a system of Pulleys and Cables to allow control over the movement of weights. Specific areas within the premises are also to be fitted out with high load and impact resistant flooring as recommended by the Acoustic report provided by Acoustic and Noise Solutions P/L dated 13 February 2023.

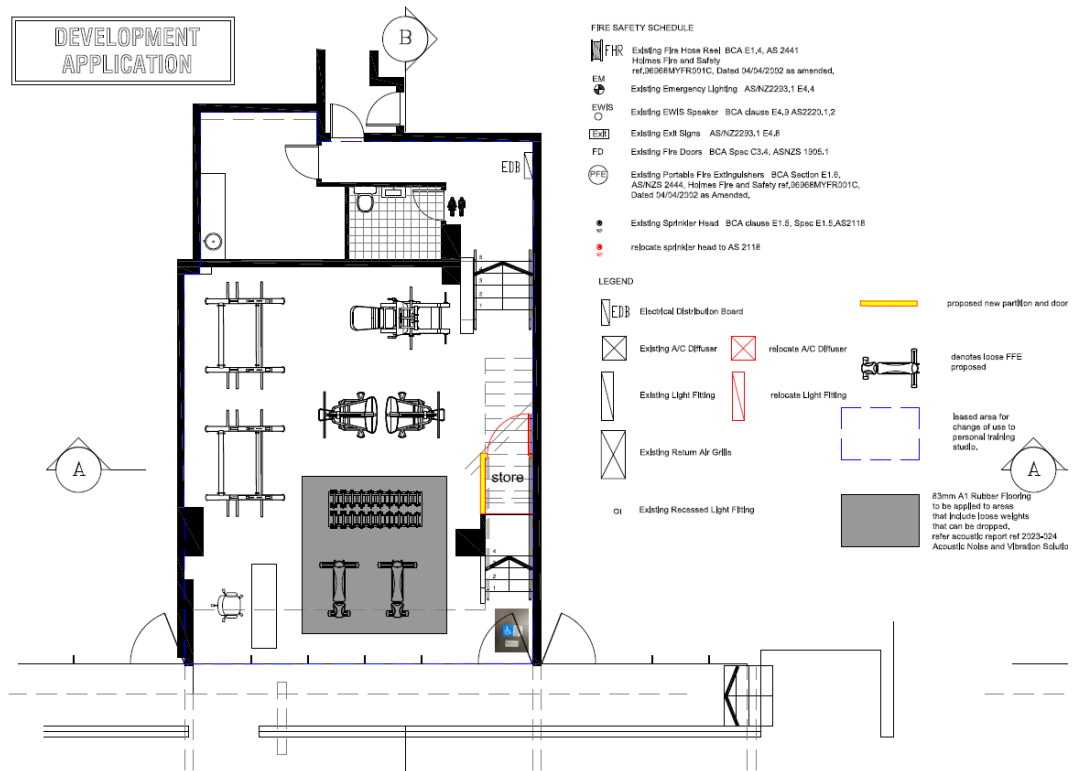


Figure 1: Proposed ground floor layout (Rev B)

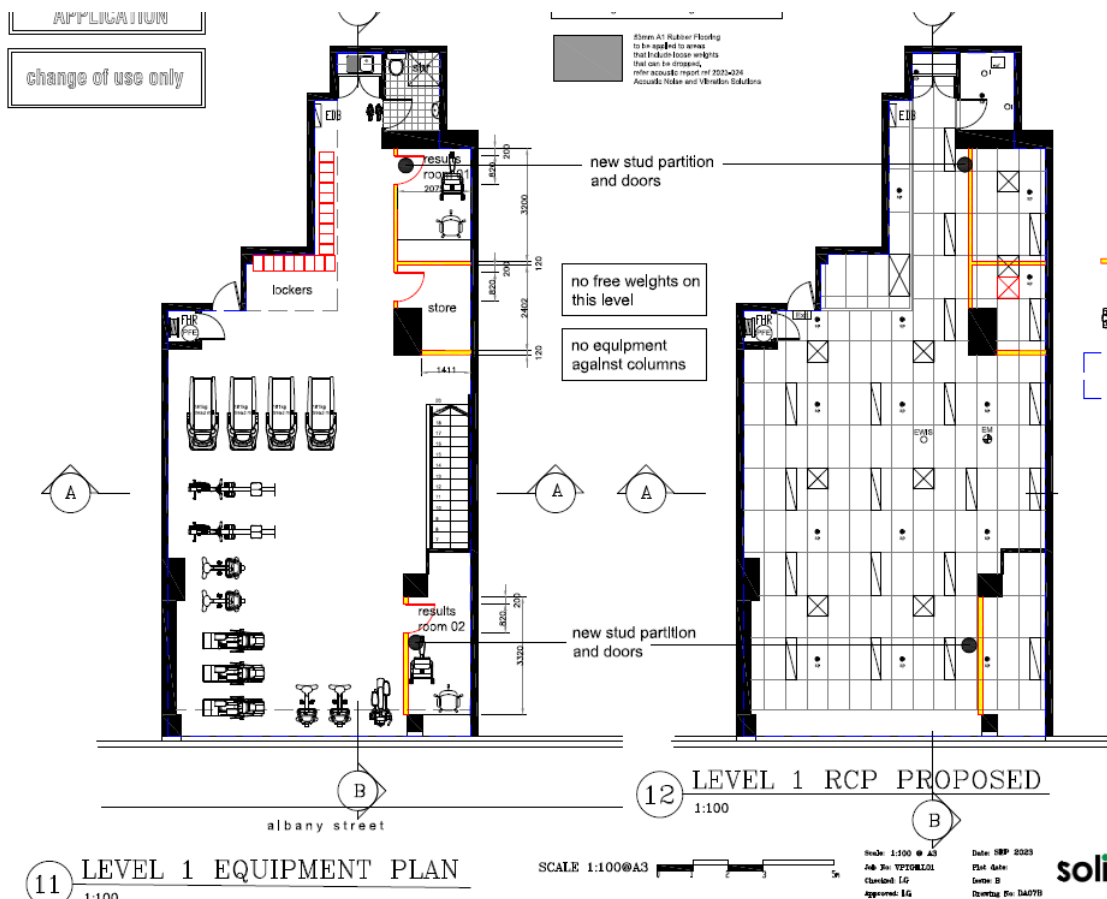
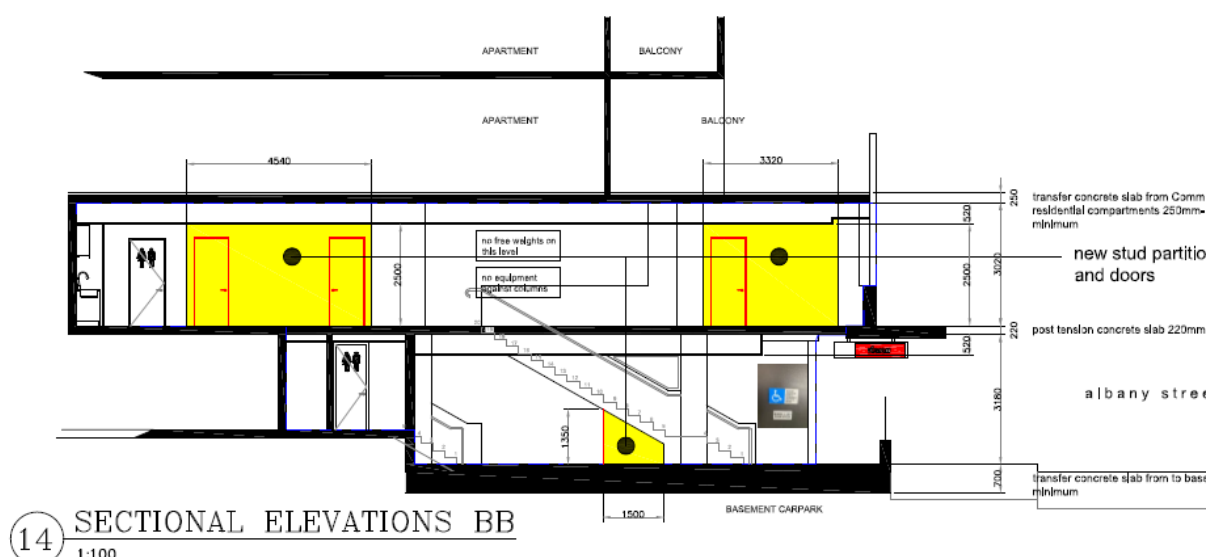


Figure 2: Proposed first floor layout (Rev B)



**Figure 3: Proposed section diagram to confirm floor to ceiling clearance and approximate slab thickness. Ref notations concernign post tension slab bewteen the upper floors.**

**Plan of Management – July 2023 (Version 3.0)**

A plan of management has been provided which provides a proposed operating schedule and staff to customer ratio of 1 personal trainer per 2 patrons maximum with 1 admin support staff member during business hours. The maximum patrons and staff on site are proposed as follows:

**Weekday Sessions**

<b>Time/Session</b>	<b>Staff Patron ratio</b>	<b>Maximum on premises</b>
5:30am to 6am	1:1 Personal Training sessions where there is a maximum of 3 personal trainers with maximum 3 clients	<b>9 people maximum</b>
6am to 10:30am	1:1 Personal Training sessions where there is a maximum of 6 personal trainers with maximum 8 clients	20 people maximum
10:30am to 4:30pm	1:1 Personal Training sessions where there is a maximum of 3 personal trainers with maximum 3 clients	9 people maximum
4:30pm to 8pm	1:1 Personal Training sessions where there is a maximum of 6 personal trainers with maximum 8 clients	20 people maximum

**Saturday Sessions**

<b>Time/Session</b>	<b>Staff Patron ratio</b>	<b>Maximum on premises</b>
6:30am to 7:30am	1:1 Personal Training sessions where there is a maximum of 3 personal trainers with maximum 3 clients	9 people maximum
7:30am to 12pm	6 personal trainers with maximum 8 clients	20 people maximum

### **Acoustic measures**

The application is accompanied by an acoustic report prepared by Acoustic, Vibration & Noise Pty Ltd dated 14 Feb 2023, with additional detailed provided to Council on 7 September 2023 which has been considered by Council's Environmental Health Team Leader.

The following acoustic measures are proposed:

#### **Mechanical plant**

1. The premises is provided with existing air-conditioning units, to be retained. any new mechanical ventilation is installed, owner is to choose a quiet motor and to lag the duct and fan box with minimum 50mm thick insulation blanket.

#### **VIBRATION IMPACT - Flooring**

2. 83mm A1 Rubber Flooring (or similar) is to be installed through the whole areas where drop weights are used.
3. Signs are to be installed instructing patrons not to drop weights over 32kgs from a distance higher than 450 mm height.
4. Staff members are to ensure this is rule is enforced.
5. The use of vibration dampers on machine weights adjacent to building columns is recommended.

#### **Music**

6. Amplified music is not to be permitted.
7. Only background music/Tv [is] to be allowed and this to be inaudible outdoors of the Training studio.
8. All operable windows & sliding doors to the premises are to be closed between 5:30 am – 8:00 a.m.

#### **Management Plan and signage**

9. Patrons of the Training studio must be informed of the nearest residential noise receivers and the importance of minimising noise produced especially during the evening and night hours.
10. Management is to ensure that patrons enter and leave the site in an orderly fashion and not congregate outside.
11. Signs are to be placed inside the training centre near any weights advising patrons to not heavily drop weights on the floor, rather place them gently, when possible, to minimise any vibration impact.

12. Signs are to be installed advising clients that no weights over 32 kgs are to be dropped above 450mm height.

### **Noise Management Plan**

13. A Noise Management Plan must be implemented and include the following:

- Install a contact number at the front of the Training Studio so that complaints regarding the operation can be made.
- Implement a complaint handling procedure. If a noise complaint is received the complaint should be recorded on a Complaint Form. The Complaint Form should contain the following:
  - Name and Address of the Complainant
  - Time and Date the Complaint was received
  - The nature of the complaint and the time/date the noise was heard
  - The name of the employee that received the complaint
  - Actions taken to investigate the complaint and the summary of the results of the investigation
  - Indication of what was occurring at the time the noise was happening (if applicable)
  - Required remedial action (if applicable)
  - Validation of the remedial action
  - Summary of feedback to the complaint

A register of complaints should be maintained and held on the premises, to be reviewed monthly by staff to ensure all complaints are being responded to.

All complaints received shall be reported to management with initial action/investigation commencing within 7 days. The complainant should also be notified of the results and actions arising from the investigation.

### **STATUTORY CONTROLS**

Environmental Planning & Assessment Act 1979  
Environmental Planning and Assessment Regulation 2021

#### **North Sydney LEP 2013**

- Zoning – MU1 (Mixed Use)
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (“Former Marco Building” No.583 Pacific Highway (I1034))
- Conservation Area - No
- FSBL - No

SEPP (Biodiversity and Conservation) 2021

SEPP (Resilience and Hazards) 2021

SEPP (Industry and Employment) 2021

Local Development



## POLICY CONTROLS

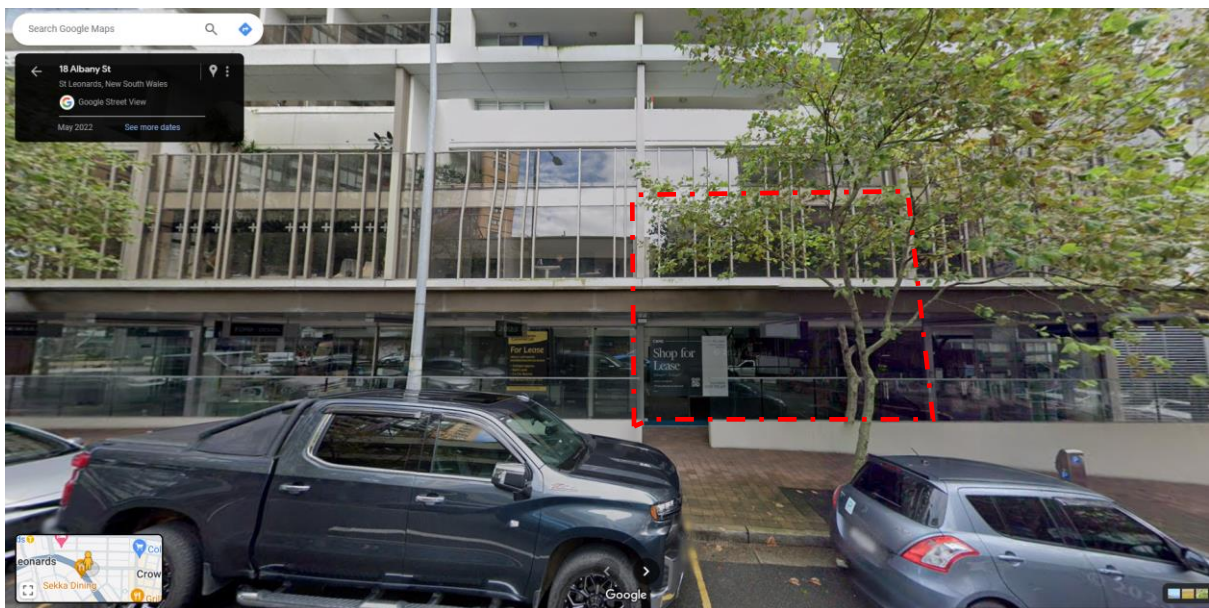
NORTH SYDNEY DCP 2013

North Sydney Local Infrastructure Contributions Plan 2020

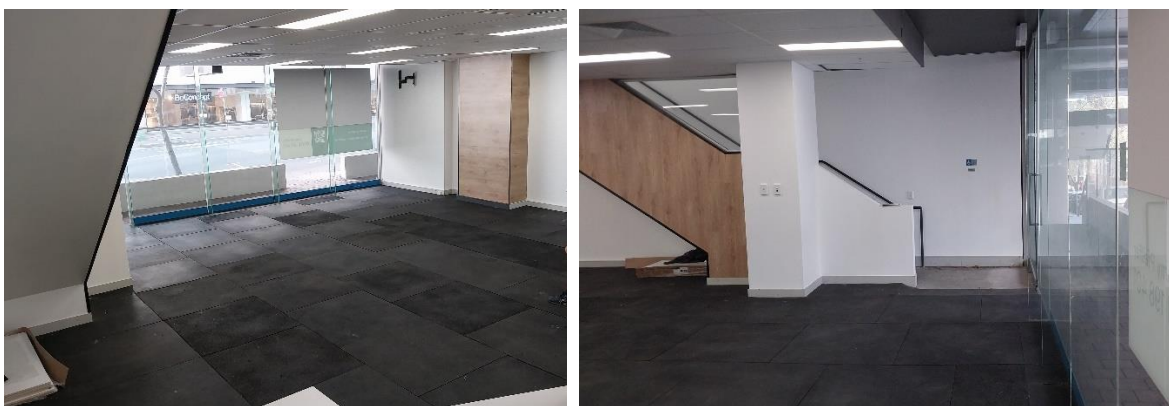
## DESCRIPTION OF LOCALITY

The subject site is located on the corner of the Pacific Highway at Mitchell and Albany Streets, with rear boundary to Albany Lane. The site is occupied by a multi-storey mixed use apartment building known as the “Abode”. The subject tenancy, Suite 7, is part of a row of ground floor retail units within the building fronting onto Albany Street. Suite 7 shares a small entry lobby at ground level with the commercial tenancy immediately above. Residential units are located above the premises above the first floor of the tenancy. Access to the first floor is via an existing internal stair.

Surrounding development comprises predominantly multi-storey apartment buildings with ground level retail premises on Albany Street, and multi-storey office buildings on the Pacific Highway.



**Figure 4: Subject site (Source: google maps May 2022)**



**Figure 5 & 6: Existing tenancy ground floor**



**Figure 7: Existing tenancy first floor**

## RELEVANT HISTORY

### Previous applications

#### **DA257/15**

On 10 September 2014 Development Application No. 257/14 was approved under delegated authority for use of the subject premises as a “personal training studio” operating from 6am to 8pm Monday to Friday, and 6am to 7pm Saturday. **The consent related to the use of the ground floor of the premises only**, was subject to a maximum of 9 pax on site at any one time and the following relevant conditions:

#### **Noise and Vibration Impact (Compliance)**

- A1. *Within 60 days of the granting of this consent, acoustic testing must be undertaken and a report from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, prepared to demonstrate that the use of the premises complies with the conditions of this consent relating to noise and vibration.*

*The testing must be carried out when the premises is operating at full capacity. A copy of the report must be submitted to Council within 14 days of its completion. If the use is found not to comply with the noise conditions, the use must cease immediately until appropriate measures to remedy the breach are implemented to the satisfaction of Council.*

*(Reason: To ensure compliance with acceptable noise levels to maintain the amenity of adjoining land uses)*

#### **Hours of Operation**

- I1. *The hours of operation are restricted to:*

*Monday to Friday 6am to 8pm  
Saturday 6am to 7pm*

*(Reason: To ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)*

### **Noise Control (Fitness Centres)**

17. The use of the premises shall comply with the following: .

#### *Music and Vocal*

- (a) The LA10 noise level emitted from the use of the premises must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 6.00am and 7.00pm when assessed at the boundary of any affected residence.
- (b) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 7.00pm and 6.00am on the following day when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from the use must not be audible within any habitable room or sleeping area in any affected residence between the hours of 7.00pm and 6.00am on the following day.
- (d) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises with windows closed.
- (e) The use of the premises must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997.

*LA10 is the average maximum A-weighted Fast Response sound level emitted from the premises.*

*LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise).*

#### *Use of Gym Equipment*

*The LAavmax noise level emitted from the use of gym equipment must not exceed the background noise level (LA90) by more than 5dB when assessed inside any affected residence with the windows of the affected residence closed.*

*LAavmax is the average maximum A-weighted Fast Response sound level emitted from use of gym equipment on the premises.*

*LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise) with the windows of the affected residence closed and any air-conditioning in the residence turned off. If the LA90 is less than 20dB then it is taken to be 20dB.*

#### **General**

- "affected residence" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

- *“boundary” includes any window or elevated window of an affected residence.*

*Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.*

*(Reason: To ensure the amenity of surrounding land uses)*

#### **Maximum client capacity**

19. *The capacity of the premises is to comply with the following at any one times:*

- (a) Up to six (6) clients using the personal training studio;*
- (b) Up to two (2) personal trainers; and*
- (c) Up to one (1) client and one (1) massage therapist in the massage room.*

*(Reason: To clarify the approval)*

#### **Compliance Investigations - 2015**

On 11 December 2014, in response to noise complaints for noise from the premises, Council’s Building & Compliance Team Leader issued a request for acoustic testing to be undertaken as required by Condition A1 above.

On 15 April 2015, an acoustic report prepared by Acoustic Dynamics was provided to Council providing the following advice:

*Acoustic Dynamics has previously undertaken a regenerated noise and vibration assessment of the operation of the personal training gym (report number 3554R001.JH.141222 dated 29 January 2015). Within this report, recommendations were made for the installation of gym flooring and management practices to be put in place to reduce the regenerated noise and vibration emission from the gym to within acceptable and complying levels.*

*Acoustic Dynamics understands that the gym does not operate with a large scale sound system, and that the provision of personal training is limited to individual or small group training sessions. Further, the mechanical services for the personal training gym are ducted to the roof of the building with the other commercial tenancies. Acoustic Dynamics advises that the noise emission from the operation of the gym, should no music be played, would be below the relevant noise emission criteria for the nearby residential and commercial receivers.*

*Acoustic Dynamics advises that our previous regenerated noise and vibration report adequately addresses the most significant noise emission from the premises, and that a full assessment of the noise emission assessment for the provision of music and patron noise would not be deemed necessary.*

On 28 April 2015 Council advised the operator of the premises to require ongoing compliance with the operational requirements expressed in the conditions of consent including limitations on patron numbers, provision of acoustic flooring and measures to control music and other noise generating activities.

The applicant advises that previous personal training studio has subsequently ceased to operate from the premises following an end of lease in approximately 2021.

**Current Application**

<b>Date</b>	<b>Action</b>
14 June 2023	Lodgement
20-Jun-2023	Allocated for assessment. Environmental Health and Building Referrals commenced
30 June to 14 July 2023	Neighbour Notification
27 June 2023	Building Referral Comments received
10 August 2023	Officer requested the applicant withdraw following desktop assessment, pending resolution of acoustic issues.
4 September 2023	Site inspection with applicant
5 September 2023	Additional acoustic measures sought by Council. The following being requested: <ul style="list-style-type: none"> <li>• <i>Applicant to confirm if 599 Pacific Highway has a 300mm floor slab. (Confirm the floor-slab on both levels)</i></li> <li>• <i>Applicant to confirm testing on a 50kg at the proposed gym.</i></li> <li>• <i>The report gives a predicted noise level (compliant) at the nearest residential receiver. Applicant to confirm if this is <u>an internal noise level</u> or <u>measured externally</u> at the boundary of the residential unit.</i></li> </ul>
7 September 2023	Response from applicant to the above to provide response to above request: Advice from Acoustic Noise and Vibration Solutions P/L <ul style="list-style-type: none"> <li>• <b>Applicant to confirm testing on a 50kg at the proposed gym.</b>  <i>From Previous experience and other sites testing dropping a 50 kgs from around 350 height will be inaudible inside the units above the Gym area if 83mm Regupol flooring is utilised [ 75mm FX vibration Paver + 8 mm thick Everroll]. Testing on site can be carried out to confirm the above.</i></li> <li>• <b>The report gives a predicted noise level (compliant) at the nearest residential receiver. Applicant to confirm if this is <u>an internal noise level</u> or <u>measured externally</u> at the boundary of the residential unit.</b>  <i>Noise from the Gym can be either airborne ( Music, Tvs, Shouting during Gym classes,...) or structure borne ( as result of dropping weights); Predicted Airborne noise levels inside the residential units above the Gym as per section 5.3.1 of our acoustic report was found to be 22 dB(A) which is 13 dBs better than the requirement of AS 2107 ( 35 dB(A) in bedrooms) and that is inaudible to most individuals . Predicted Structure noise levels inside the units as per section 5.3.2 was found to be inaudible if Max 32 kgs weights are dropped on the 83 mm Regupol flooring ground from a maximum of 450 mm height.</i></li> </ul>
12 October 2023	Application reallocated to new assessing officer.
12 October 2023	The above advice provided to Council's Environmental Health Team Leader.
16 October 2023	Further comment provided by Council's Environmental Health Team Leader confirming concerns had not been adequately addressed.
26 October 2023	Letter to applicant confirming the acoustic testing remained inadequate and requesting withdrawal of the application.

## INTERNAL REFERRALS

### ENVIRONMENTAL HEALTH - NOISE

The application was referred to Council's Environmental Health Team who reviewed the *Acoustic & Vibration Impact Report* prepared by *Acoustic, Vibration & Noise Pty Ltd*, dated 14 February 2023 and provided the following comments:

*The max number of occupants is said to be 20 patrons, 2 staff members and 1 personal trainer.*

*A noise logger was used to determine current noise levels in the area. The noise logger was placed on a balcony of the residential unit above. **The report does not show that noise measurements were taken of the internal noise levels within the residential units which will be significantly lower than the noise levels measured externally.***

*The report is using a noise level criterion of 43 dB(A) as the noise level to be achieved during nighttime hours. Higher during day (48 dB(A)) and evening (58dB(A) hours. **It is likely that the internal noise level within the residential units is 30 dB(A) or below during night time hours.** This project specific noise criteria are therefore relevant for external measurements at a neighbouring residential receivers boundary -not relevant as a required noise level internally in the units above .*

*No new mechanical plant is proposed – all existing.*

***Section 5.3 of the report says that the gym will offer weight training only. No details are provided of the equipment or weights to be installed/used at the facility.***

*The report gives a predicted noise level (compliant) at the nearest residential receiver. It does not clarify if this is an internal noise level or measured externally at the boundary of the residential unit. It is assumed it is the latter.*

*Noise and vibration testing carried out for the purposes of this report were carried out in a similar facility with a floor slab of 300mm. I cannot confirm if 599 Pacific Highway has a 300mm slab.*

*The testing carried out, referred to in above comment, was done using a 32kg weight. The SEE refers to weights of up to 50kg at the proposed gym – but this weight was not tested.*

*The report shows that the noise levels were too high, in the unit above, when a 32kg weight was dropped from shoulder or waist heights. The noise was inaudible when dropped from .45m – knee height. This was with a slab of 300mm.*

*No amplified music is proposed; just background music from the tvs.*

In response to the above comments, Council requested further acoustic analysis be provided on 5 September 2023. The applicant was provided with a summary of the above at this time and additional information sought in relation to the sound measurements and assumptions included in the acoustic consultant's assessment, including assumptions on the existing slab thickness of the buildings.

The following response was provided by the applicant's acoustic consultant:

**Advice from Acoustic Noise and Vibration Solutions P/L – 7 September 2023 (by email)**

- **Applicant to confirm testing on a 50kg at the proposed gym.**  
*From Previous experience and other sites testing dropping a 50 kgs from around 350 height will be inaudible inside the units above the Gym area if 83mm Regupol flooring is utilised [ 75mm FX vibration Paver + 8 mm thick Everroll]. Testing on site can be carried out to confirm the above.*
- **The report gives a predicted noise level (compliant) at the nearest residential receiver. Applicant to confirm if this is an internal noise level or measured externally at the boundary of the residential unit.**  
*Noise from the Gym can be either airborne ( Music, Tvs, Shouting during Gym classes,...) or structure borne ( as result of dropping weights); Predicted Airborne noise levels inside the residential units above the Gym as per section 5.3.1 of our acoustic report was found to be 22 dB(A) which is 13 dBs better than the requirement of AS 2107 ( 35 dB(A) in bedrooms) and that is inaudible to most individuals . Predicted Structure noise levels inside the units as per section 5.3.2 was found to be inaudible if Max 32 kgs weights are dropped on the 83 mm Regupol flooring ground from a maximum of 450 mm height.*

In response to the above, the following further advice has been provided by Council's Environmental Health Team Leader:

*As discussed the received response does not really answer the questions raised.*

*Information received indicates that the floor slab between the weights area of the gym and the residential unit above is 250mm to 275mm thick. The acoustic report findings are based on the assumption that the floor slab is 300mm thick. We have not been advised if the findings of the acoustic report would be different or need adjusting to allow for a 250mm slab.*

*Assuming a 300mm thick floor slab, the report advises that 32kg weights are required to be dropped for 450mm height to be inaudible in the unit above, (and from 350mm height for a 50kg weight according to an email from the acoustical consultant). Compliance with this relies entirely on management and supervision and therein lies the problem with many of these gyms located below residential accommodation.*

*None of the other equipment in the gym has been tested or reported on. The report only advises on the requirements for a 32kg weight.*

*The background noise level within the residential unit above has not been confirmed.*

On the basis of the above, the applicant has been advised that the acoustic testing provided is insufficient for the premises, noting the construction standard of the building includes the use of post tensioned concrete slabs between the premises and the residential unit located above the first floor. The noise and vibration measures recommended by the acoustic consultant are based on assumptions and have not taken into account the high potential for noise transfer through vibration through structural columns. The reliance on unreasonable management controls would also contribute to likely noise and vibration impacts.

The North Sydney Development Control Plan 2013 provides that the operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background with maximum 1 hour noise level (LAeq 1 Hour) during the day and evening and not exceeding the background level at night when measured at the boundary of the property.

The application has not demonstrated that compliance could be achieved with acoustic standards required by Council's Development Control plan 2013 and therefore is considered to be unreasonable in the circumstances.

## **BUILDING**

Council's Building Surveyor has considered the proposal and has provided the following comment:

*The development application seeks approval for the change of use of an existing tenancy for use as a personal training studio within a mixed-use building.*

*The Statement of Environmental Effects dated February 2023 accompanying the application and a review of the proposed Plans identifies that building works are required to be undertaken constructing partition walls, new flooring and other minor works.*

*The building is classified by the NCC BCA as a class 2 & 6 and 7a building of Type B construction.*

*A review of Council's records revealed the Property forms part of Council's Annual Fire Safety Statement Register and submission of AFSS is up to date for the property.*

*The application is supported by an Access Report dated May 2023 prepared by A I Consulting which concludes that the proposed development can comply with the Deemed to Satisfy provisions of the BCA.*

*Given the minor scale of the proposed works upgrade of the building is not required pursuant to Clause 64 of the Environmental Planning & Assessment Regulations 2021.*

*Generally, the proposed development is able to comply with the NCC BCA, Volume 1. A detailed assessment of compliance with the Building Code of Australia 2022 will be undertaken by an appropriately Registered Building Surveyor at the Construction Certificate Stage of the proposed development. Additionally, a Fire Safety Schedule is to be prepared by the certifier and accompany the Construction Certificate.*



The proposed change of use has been assessed against the requirements of *Clause 64 of the Environmental Planning & Assessment Regulations 2021* and appropriate conditions are recommended to ensure the proposal will comply with the requirements of the National Construction Code.

## **SUBMISSIONS**

Notification was undertaken between 30 June 2023 and 14 July 2023. Council notified adjoining properties and the Holtermann Precinct of the proposal. A total of forty-two (42) unique submissions were received by Council in response to the proposal, including one in support.

### **Basis of Submissions:**

- Noise, Vibration, Reverberation
- Operating Hours
- Inadequate Statement of Environmental Effects
- Inadequate Plan of Management
- Inadequate Acoustic Report
- Inadequate Access Report and NCC Classification
- Incorrect BCA Report based on incorrect NCC Classification
- No valid development approval for gym/PT studio on site (DA257/14 not satisfied)
- Numerous existing gyms in close proximity
- Impact of Queues on the pedestrian footpath
- Owners Corporation Consents not given
- By-Laws not adhered
- Estimate cost of works (\$10,000) unrealistic

The issues raised in the submissions are summarised below and addressed later in this report. The original submissions may be viewed by way of DA tracking on Council's website [https://www.northsydney.nsw.gov.au/Building\\_Development/Current\\_DAs](https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs) and are available for review by NSLPP members.

## **CONSIDERATION**

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

(INSERT COMMENTS UNDER THE RELEVANT EPIS)

### **Environmental Planning and Assessment Act 1979 (as amended) Environmental Planning and Assessment Regulation 2000**

#### **SEPP (Biodiversity and Conservation) 2021**

##### **Chapter 2 – Vegetation in Non-Rural Areas**

The proposal meets the objectives of the SEPP because there would be no clearance of native vegetation or any materials impacts on bushland (if any) in the vicinity of the subject site.

## SEPP (Resilience and Hazards) 2021

The provisions of SEPP (Resilience and Hazards) require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has only previously been used for residential purposes and as such is unlikely to contain any contamination; therefore, the requirements of the above SEPP have been satisfactorily addressed.

## NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

### 1. Permissibility

The proposed works can be defined as a recreation facility (indoor) and is permissible with development consent in the MU1 (Mixed Use) zone.

### 2. Objectives of the zone

The objectives for the Mu1 (Mixed Use) zone are stated below:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- ***To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.***
- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels.*

The proposal is not consistent with the objectives for the zone which relate to the provision for adequate residential amenity.

## NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessment under the following heading within NSDCP 2013:

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 2- Commercial and Mixed Use Development		
	<i>complies</i>	<i>Comments</i>
<b>2.2 Function</b>		
<b>2.2.1 Diversity of Activities</b>	Yes	The proposal would provide for a land use that is broadly compatible with a mixed use area. However the design and location of the premises immediately below a residential unit would not provide for adequate residential amenity to be maintained.

<b>2.2.2 Maximise Use of Public Transport</b>	Yes	The premises is located in a highly accessible area.																															
<b>2.3 Environmental Criteria</b>																																	
<p><b>2.3.2 Noise</b></p> <p><b>Objective</b>  <i>O1 To ensure reasonable levels of acoustic amenity to nearby residents. Provision</i></p> <p><i>P1. Noise emission associated with the operation of non-residential premises or non-residential components of a building must not exceed the maximum 1 hour noise levels (LAeq 1 Hour) specified in Table B-2.3.</i></p> <p><i>P3 Despite P1 above, the noise emission associated with the operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background maximum 1 hour noise level (LAeq 1 Hour) during the day and evening and not exceeding the background level at night when measured at the boundary of the property.</i></p> <p><i>P4 Council may require the submission of an Acoustic Report to ensure compliance with P1 above.</i></p> <p><i>P6 Developments should be designed and/or incorporate features that reduce noise transmission.</i></p>	No	Refer detailed comments of Council’s Environmental Health Team Leader above. The acoustic report provided with the application has not demonstrated compliance with the acoustic standards required within the nearest residential premises, being the unit located immediately above the premises.																															
<table border="1"> <thead> <tr> <th colspan="4">TABLE B-2.3 –Noise Emission Limits</th> </tr> <tr> <th colspan="3">Time Period</th> <th rowspan="2">Max 1 hour noise level (LAeq 1 Hour)</th> </tr> <tr> <th>Day</th> <th>Week</th> <th>Time</th> </tr> </thead> <tbody> <tr> <td rowspan="3">Weekday</td> <td>Day</td> <td>7am – 6pm</td> <td>60 dBA</td> </tr> <tr> <td>Evening</td> <td>6pm – 10pm</td> <td>50 dBA</td> </tr> <tr> <td>Night</td> <td>10pm – 7am</td> <td>45 dBA</td> </tr> <tr> <td rowspan="3">Weekend</td> <td>Day</td> <td>8am – 7pm</td> <td>60 dBA</td> </tr> <tr> <td>Evening</td> <td>7pm – 10pm</td> <td>50 dBA</td> </tr> <tr> <td>Night</td> <td>10pm – 8am</td> <td>45 dBA</td> </tr> </tbody> </table> <p><b>Notes:</b> LAeq (1hour) readings are to be measured during the noisiest 1 hour period between Day – 7/8am to 6/7pm, Evening – 6/7pm – 10pm and Night – 10pm to 7/8am.</p>			TABLE B-2.3 –Noise Emission Limits				Time Period			Max 1 hour noise level (LAeq 1 Hour)	Day	Week	Time	Weekday	Day	7am – 6pm	60 dBA	Evening	6pm – 10pm	50 dBA	Night	10pm – 7am	45 dBA	Weekend	Day	8am – 7pm	60 dBA	Evening	7pm – 10pm	50 dBA	Night	10pm – 8am	45 dBA
TABLE B-2.3 –Noise Emission Limits																																	
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	Evening	7pm – 10pm	50 dBA																														
	Night	10pm – 8am	45 dBA																														
<p><b>2.3.9 Acoustic Privacy</b></p> <ul style="list-style-type: none"> <li>• Living areas (day/night &lt; 40 dBA)</li> <li>• Sleeping areas (day/night) &lt; 40 dBA</li> </ul>	No	Refer comment above.																															

**Trading Hours - Section 7.3 in Part B of NSDCP 2013**

<b>DEVELOPMENT CONTROL PLAN 2013</b>		
<b>Part B Section 7 Late Night Trading &amp; Trading Hours</b>		
<b>Provisions</b>	<b>Complies</b>	<b>Comments</b>
<p><b>General objectives</b></p> <p><b>O1. To ensure that trading hours are consistent with the desired character of each zone.</b></p> <p><b>O2. To minimise adverse amenity impacts on nearby residents.</b></p> <p><b>O3. To encourage a vibrant late night economy within North Sydney</b></p> <p><b>O4. To ensure a reasonable balance is achieved between late night uses &amp; residential amenity.</b></p> <p><b>O5. To ensure that residential zones located within the interface to late night trading areas are reasonably protected.</b></p> <p><b>O6. To minimise amenity impacts resulting from parking &amp; traffic caused by late night uses.</b></p>	<p>No</p>	<p><b>Proposed Operating Hours</b></p> <p>Monday to Friday: 5:30am to 8:00pm                  Saturday: 5:30am to 1pm                  Sunday: closed</p> <p>The proposed trading hours have been considered against the general objectives of this section.</p> <p>The proposed hours are not consistent with the stipulated late night trading hours for the MU1 (Mixed Use) Zone. Whilst there are a number of gym premises in the immediate vicinity of the site which open from 5:30am, none are known to be located immediately beneath residential premises.</p> <p>The noise impact arising from operational noise of grounds and classes with 20 people from 6am on six days a week is considered likely to present unreasonable noise impacts.</p> <p>Given the construction standard of the building and previous compliance investigations concerning noise from the subject premises, it is not considered appropriate that the site be considered for approval for a trial period.</p>
<p><b>Matters for consideration</b></p>	<p>No</p>	<p>The relevant matters as stipulated within Section 7.2 have been considered as follows:</p> <p><b>(a) Location and context of the premises, including proximity to residential &amp; other sensitive uses and other late trading premises</b></p> <p>The premises is located immediately below residential premises and will likely result in unreasonable impact on residential amenity.</p> <p><b>(b) Specific nature of the premises (e.g., pub, nightclub, restaurant, etc) and the hours of operation</b></p> <p>The gym premises is an early morning premises with groups of 20 people undertaking 1:1 training sessions, including access to free weights, stack weights and training machines.</p> <p>The proposed plan of management is considered unlikely to be reasonably enforceable at all times during operations. The likely impact in this instance, including the regular usage of the premises and inability for residents to address noise and vibration impacts easily.</p>

<p><b>Trading hours (permitted)</b></p> <p><b>P1 Maximum trading hours</b></p> <p><b>Zone:</b> MU1 Mixed Use</p> <p><b>7am – 11pm (Monday to Wednesday)</b></p> <p><b>7am – 12midnight (Thursday to Saturday)</b></p> <p><b>7am – 10pm (Sunday)</b></p>	<p>No</p>	<p>The proposed hours of operation for the subject premises are as follows:</p> <p style="padding-left: 40px;">Monday – Friday: 5:30am to 8:00pm                  Saturday: 5:30am to 1pm                  Sunday: Closed</p> <p>These hours are inconsistent with Council’s adopted late night trading hours for the MU1 Mixed Use zone.</p>
<p><b>Acoustic impacts</b></p> <p><b>O1 To ensure the use of premises do not result in any unreasonable acoustic impacts on surrounding residential properties.</b></p> <p><b>Requires compliance with n Section 2.3.2 – Noise to Part B of the DCP</b></p>	<p>No</p>	<p>Refer detailed comments above.</p>

**LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN**

The proposed application is exempt from payment of Local Contributions due to the cost of commercial work being less than \$100,000.

**ALL LIKELY IMPACTS OF THE DEVELOPMENT**

All likely impacts of the proposed development have been considered within the context of this report.

<b>ENVIRONMENTAL APPRAISAL</b>	<b>CONSIDERED</b>
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	N/A
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes

8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

### **SUBMITTERS CONCERNS**

The application was notified to adjoining properties and the Holtermann Precinct. Council received forty two (42) submissions in response to the proposed use, with a total of forty one (41) objections. The concerns raised in the submissions are summarised below:

- Noise, Vibration, Reverberation
- Operating Hours
- Inadequate Statement of Environmental Effects
- Inadequate Plan of Management
- Inadequate Acoustic Report
- Inadequate Access Report and NCC Classification
- Incorrect BCA Report based on incorrect NCC Classification
- No valid development approval for gym/PT studio on site (DA257/14 not satisfied)
- Numerous existing gyms in close proximity
- Impact of Queues on the pedestrian footpath
- Owners Corporation Consents not given
- By-Laws not adhered
- Estimate cost of works (\$10,000) unrealistic

The matters raised in the submission have been considered in the preceding assessment, and the application recommended for refusal, primarily due to insufficient information to address likely unreasonable noise impacts. Where the submissions align with the recommended grounds for refusal, the concerns raised in the submissions are accepted.

### **PUBLIC INTEREST**

The proposal is not considered to be in the public interest for the reasons stated throughout this report.

### **SUITABILITY OF THE SITE**

The subject premises is not considered to be a suitable premises for an indoor recreation facility involving free weights, stack weights and training machines on the basis that the construction standard of the building and proximity to residential units, would likely result in unreasonable and constant noise and vibration impacts.

### **CONCLUSION**

The matters for consideration as outlined in section 4.15(1) of the Act have been addressed throughout this report.

The application is supported by a Plan of Management and an acoustic report which have been considered by Council's Environmental Health Team. The acoustic report however has not demonstrated that the facility use can comply with required acoustic standards applicable for mixed use buildings noting the construction standard of the building incorporates post-tensioned concrete slabs.

The North Sydney Development Control Plan 2013 provides that the operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background noise level during the day and evening and must not exceed the background level at night when measured at the boundary of the property.

Concern is raised that the submitted acoustic testing, relies upon assumptions made to provide expected noise impacts and has not conducted sufficient insitu recordings to support of recommendations and proposed mitigation measures to be implemented.

Consideration has also been given to the operating restrictions to be imposed under the Plan of Management. These restrictions are however not considered to be sufficient to address acoustic and vibration impacts likely to be experienced within the building.

On the basis that compliance could be achieved with applicable acoustic standards the proposal is considered to be unreasonable in the circumstances. The application is therefore recommended for **refusal**.

## **RECOMMENDATION**

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

**THAT** the North Sydney Local Planning Panel, exercising the functions of Council as the consent authority, resolve to refuse development consent to Development Application No. 183/23 for development involving a change of use of premises to an indoor recreation facility on land at 7/599 Pacific Highway, St Leonards as shown for the following reasons:-

### **Unreasonable noise and vibration impact**

1. The proposed use is considered likely to result in unreasonable impacts on residential amenity for existing units within the building, contrary to the provisions for development in the MU1 Mixed Use zone.

#### **Particulars:**

- i. The application has not demonstrated that compliance could be achieved with acoustic standards required by Council's Development Control plan 2013 and therefore is considered to be unreasonable in the circumstances.
- ii. Acoustic testing submitted with the application is insufficient for the premises, noting the construction standard of the building includes the use of post-tensioned concrete slabs of 250mm or less between the premises and the residential unit located above the first floor.

- iii. The operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background maximum 1 hour noise level (LAeq 1 Hour) during the day and evening and not exceeding the background level at night when measured at the boundary of the property.
- iv. The noise and vibration measures recommended by the acoustic consultant are based on assumptions and have not taken into account the high potential for noise transfer through vibration through structural columns.
- v. The mitigation measures outlined in the submitted plan of management would be insufficient to ensure reasonable residential amenity for adjoining units could be maintained;
- vi. The proposed plan of management could not reasonably be enforced at all times during operation.

#### **Hours of operation incompatible with residential amenity**

- 2. The proposed hours are not consistent with the stipulated late night trading hours for the MU1 (Mixed Use) Zone as outlined in Section 7.3 of the North Sydney DCP 2013.

#### **Particulars:**

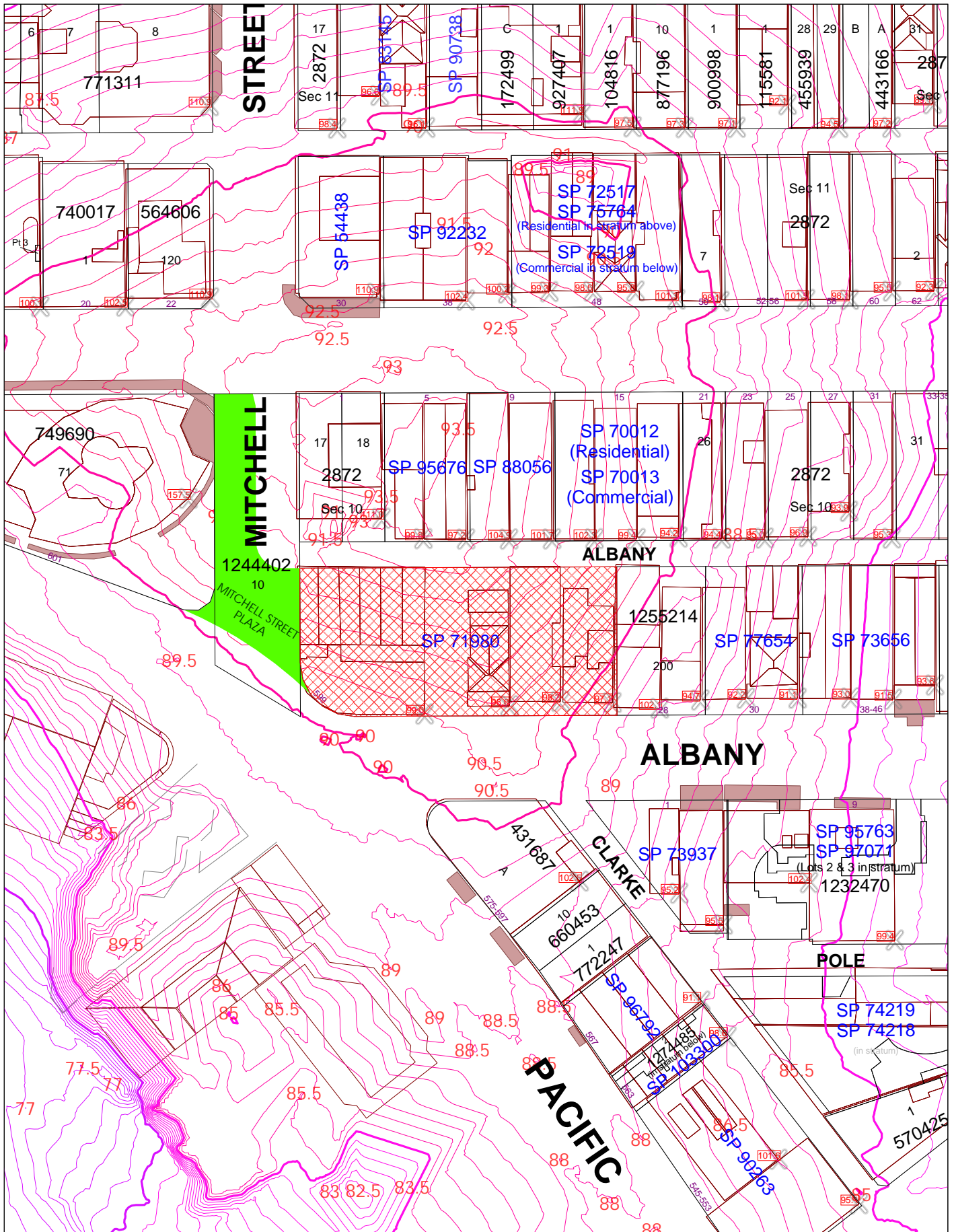
- i. Late night trading hours permit use of premises from 7am in the MU1 Mixed-Use zone.
- ii. The proposed commencement of training sessions from 5:30am, with groups of 20 people within the premises from 6am, on six days a week would unreasonably and regularly impact on the residential amenity of units directly above the tenancy.
- iii. The mitigation measures outlined in the submitted plan of management would be insufficient to ensure reasonable residential amenity for adjoining units could be maintained;

**DAVID HOY**  
**TEAM LEADER ASSESSMENTS**

**STEPHEN BEATTIE**  
**MANAGER DEVELOPMENT SERVICES**

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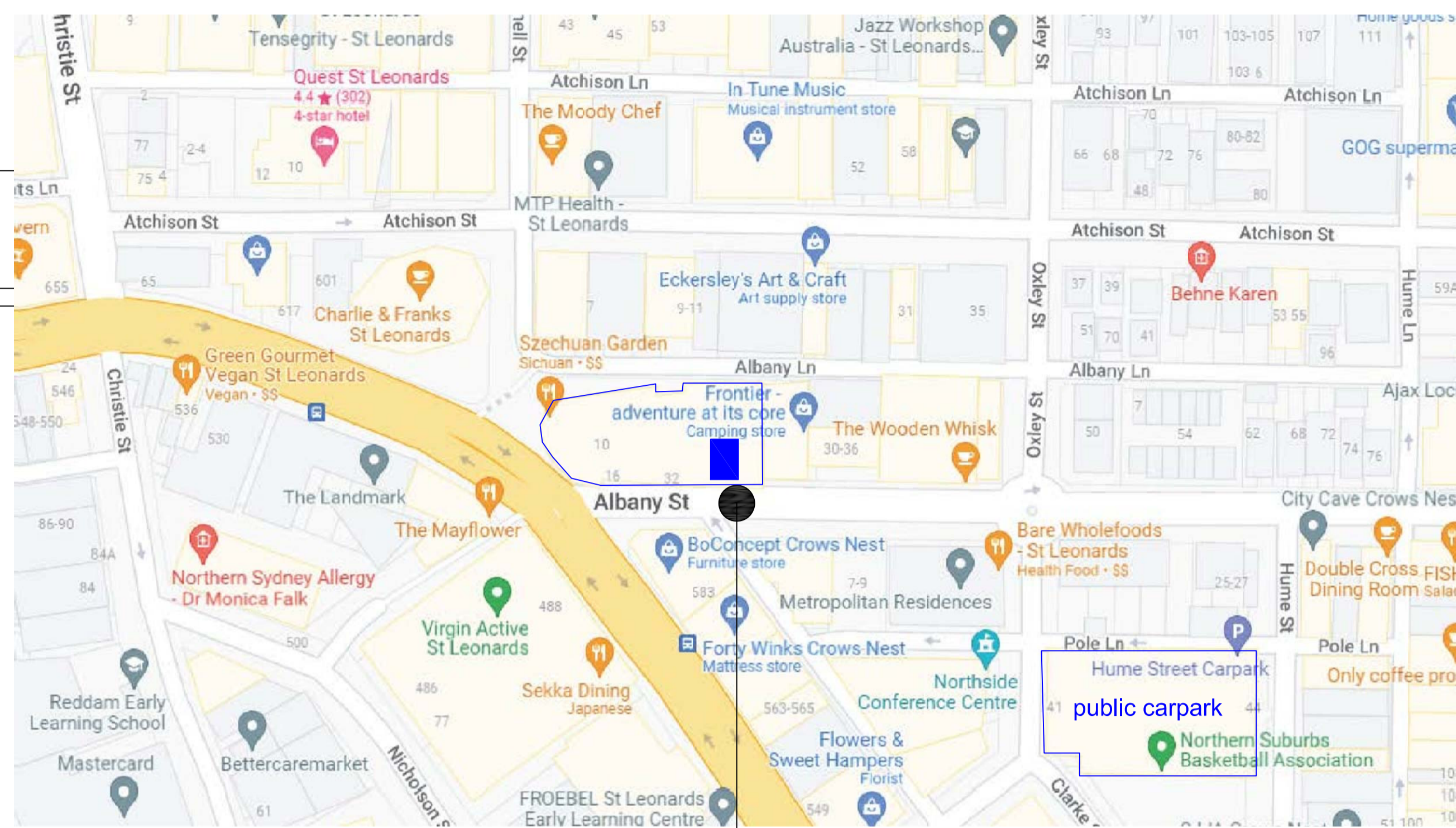
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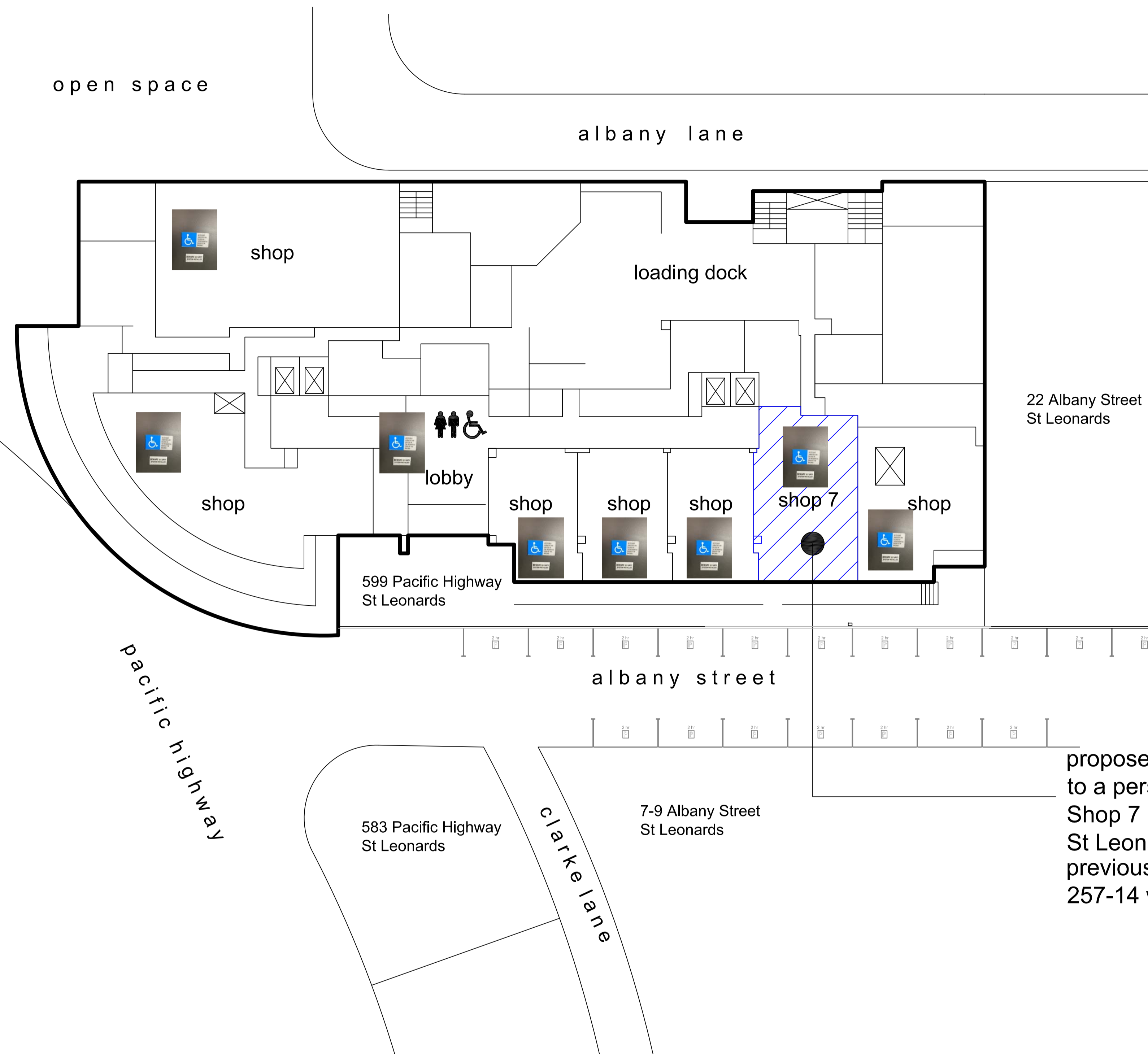
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# 1 LOCATION PLAN

NTS



# 2 SITE PLAN

SCALE NTS

proposed change of use to a personal training studio  
Shop 7 599 Pacific Highway St Leonards NSW  
previous consent for a personal training studio usage was DA 257-14 which lapsed.

no proposed works to external facades nor internal base building finishes including services.

all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.

DEVELOPMENT APPLICATION

change of use only



Scale: 1:100 @ A3  
Job No: VPTGILL01  
Checked: LG  
Approved: LG  
Date: FEB 2023  
Plot date:  
Issue: A  
Drawing No: DA01A



issue: A  
amendment: DEVELOPMENT APPLICATION  
date: FEB 2023

CLIENT  
NEIL GILLETT  
VISION PERSONAL TRAINING

PROJECT  
SP71980  
Shop 7 599 Pacific Hwy St Leonards  
Proposed Personal Training Studio



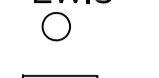


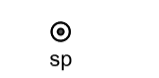

TITLE  
SITE PLAN  
LOCATION PLAN


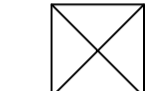

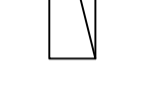

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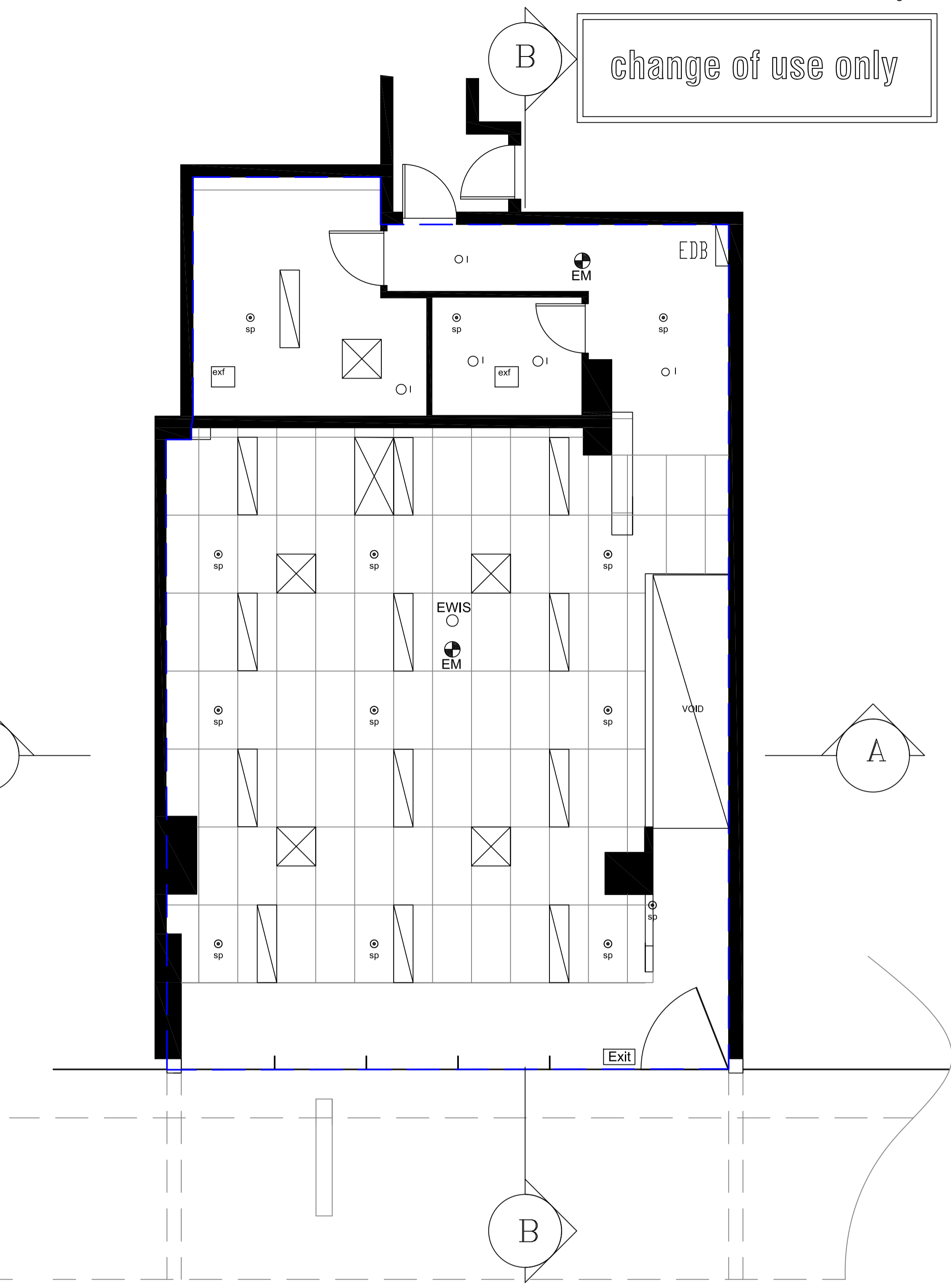
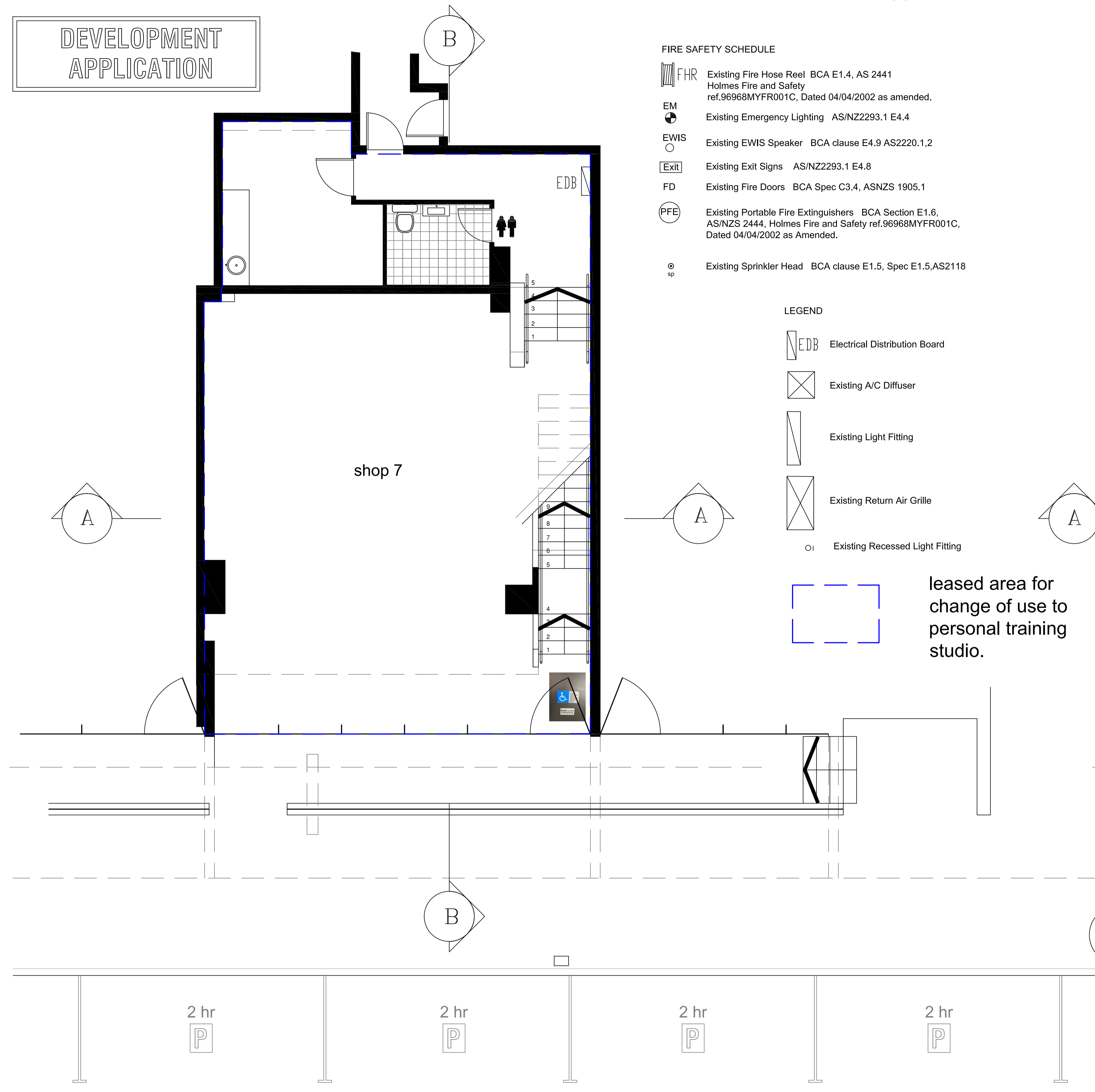
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t 0400433634  
e louis@solidvoid.com.au  
p PO BOX 110 banksia nsw 2216

DEVELOPMENT APPLICATION

change of use only

- FIRE SAFETY SCHEDULE**
-  Existing Fire Hose Reel BCA E1.4, AS 2441  
Holmes Fire and Safety ref.96968MYFR001C, Dated 04/04/2002 as amended.
  -  Existing Emergency Lighting AS/NZ2293.1 E4.4
  -  Existing EWIS Speaker BCA clause E4.9 AS2220.1,2
  -  Existing Exit Signs AS/NZ2293.1 E4.8
  -  Existing Fire Doors BCA Spec C3.4, ASNZS 1905.1
  -  Existing Portable Fire Extinguishers BCA Section E1.6, AS/NZS 2444, Holmes Fire and Safety ref.96968MYFR001C, Dated 04/04/2002 as Amended.
  -  Existing Sprinkler Head BCA clause E1.5, Spec E1.5,AS2118

- LEGEND**
-  Electrical Distribution Board
  -  Existing A/C Diffuser
  -  Existing Light Fitting
  -  Existing Return Air Grille
  -  Existing Recessed Light Fitting



**4 REFLECTED CEILING PLAN**  
SCALE 1:100

no proposed works to external facades nor internal base building finishes including services.

all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.



**3 GROUND FLOOR TENANCY PLAN**  
1:100

issue: A    amendment: DEVELOPMENT APPLICATION    date: FEB 2023

CLIENT: NEIL GILLETT, VISION PERSONAL TRAINING

PROJECT: SP71980, Shop 7 599 Pacific Hwy St Leonards, Proposed Personal Training Studio

TITLE: FLOOR PLAN, RCP

Scale: 1:100 @ A3    Date: FEB 2023  
Job No: VPTGILL01    Plot date:  
Checked: LG    Issue: A  
Approved: LG    Drawing No: DA02A

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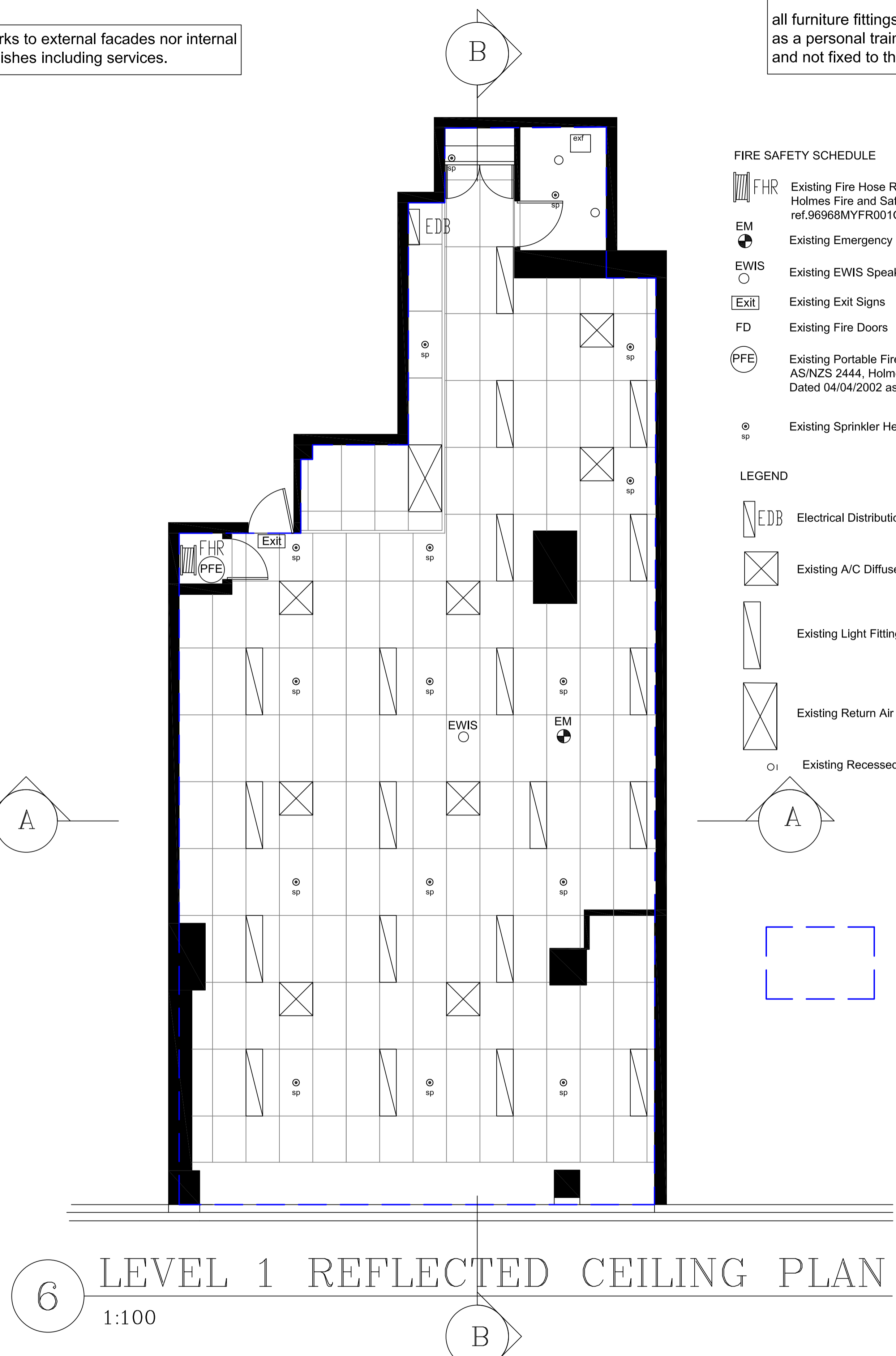
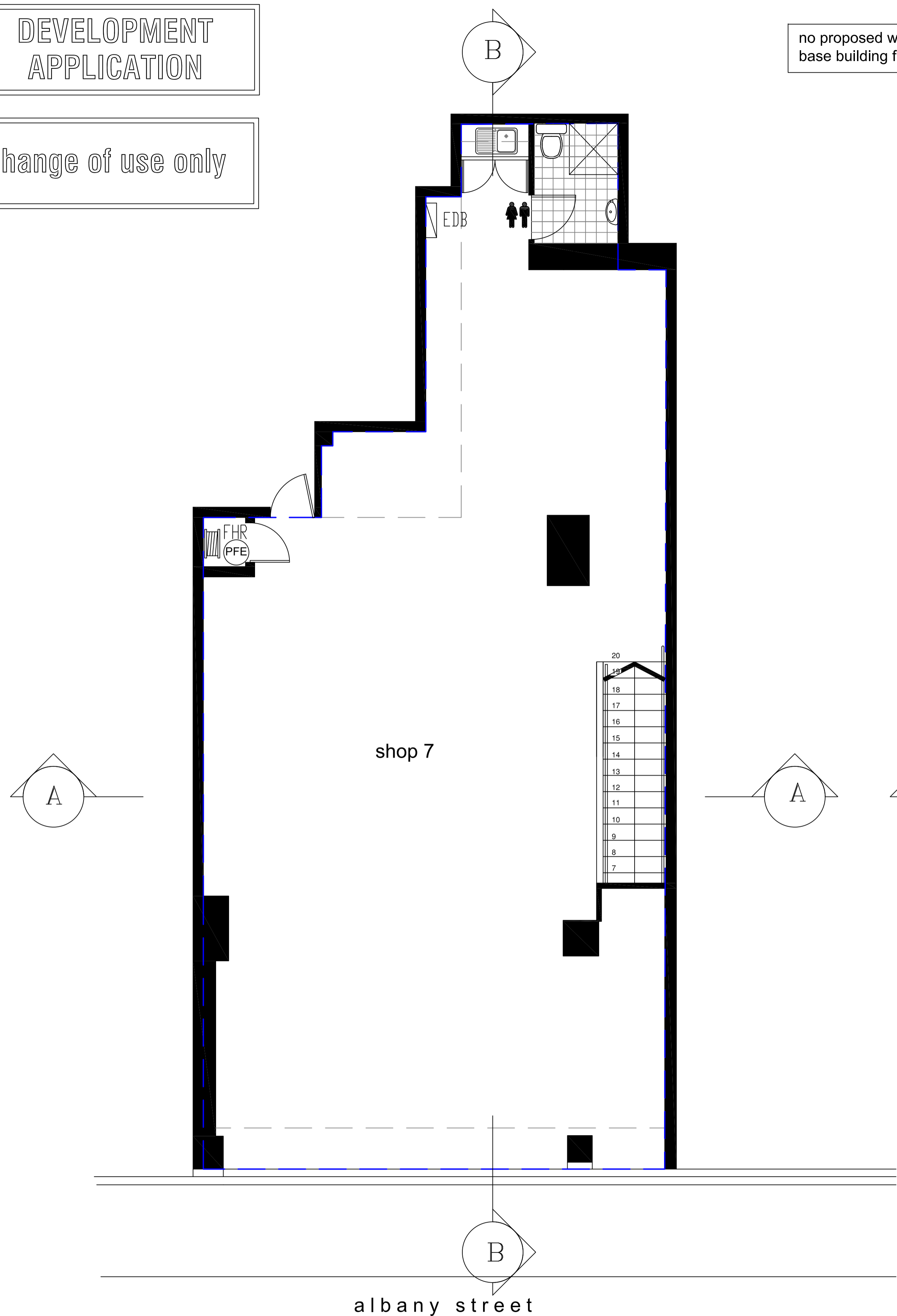
Design Institute of Australia

DEVELOPMENT APPLICATION

change of use only

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all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.



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- Electrical Distribution Board
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  - Existing Light Fitting
  - Existing Return Air Grille
  - Existing Recessed Light Fitting

leased area for change of use to personal training studio.

5 LEVEL 1 TENANCY PLAN 1:100

6 LEVEL 1 REFLECTED CEILING PLAN 1:100

issue: A amendment: DEVELOPMENT APPLICATION

date: FEB 2023

CLIENT NEIL GILLETT VISION PERSONAL TRAINING

PROJECT SP71980 Shop 7 599 Pacific Hwy St Leonards Proposed Personal Training Studio

TITLE FLOOR PLAN RCP

Scale: 1:100 @ A3 Date: FEB 2023 Job No: VPTGILL01 Plot date: Checked: LG Issue: A Approved: LG Drawing No: DA03A

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DEVELOPMENT APPLICATION

change of use only

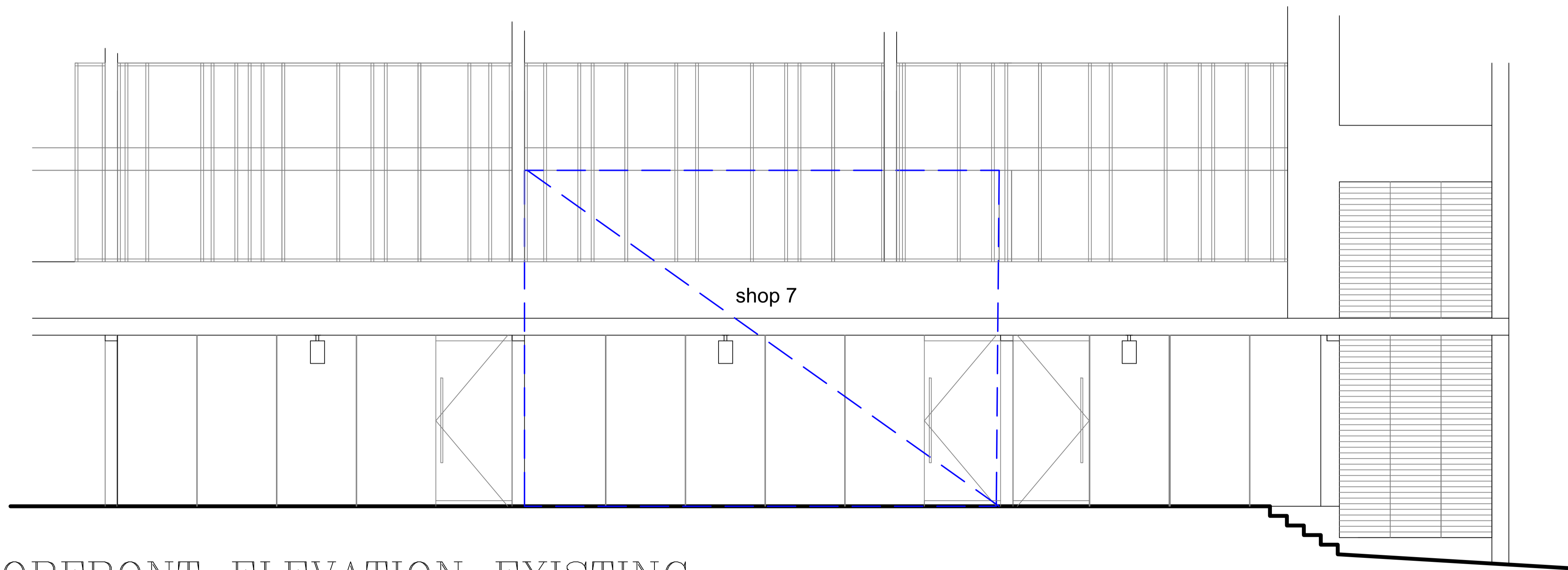


leased area for change of use to personal training studio.



### 10 STREET ELEVATION EXISTING

1:100



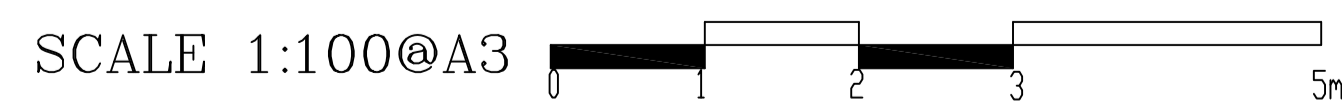
### 9 SHOPFRONT ELEVATION EXISTING

1:100



all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.

no proposed works to external facades nor internal base building finishes including services.



Scale: 1:100 @ A3  
Job No: VPTGILL01  
Checked: LG  
Approved: LG  
Date: FEB 2023  
Plot date:  
Issue: A  
Drawing No: DA04A



issue: A  
amendment: DEVELOPMENT APPLICATION  
date: FEB 2023

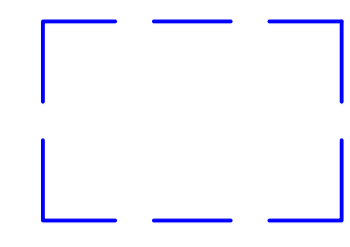
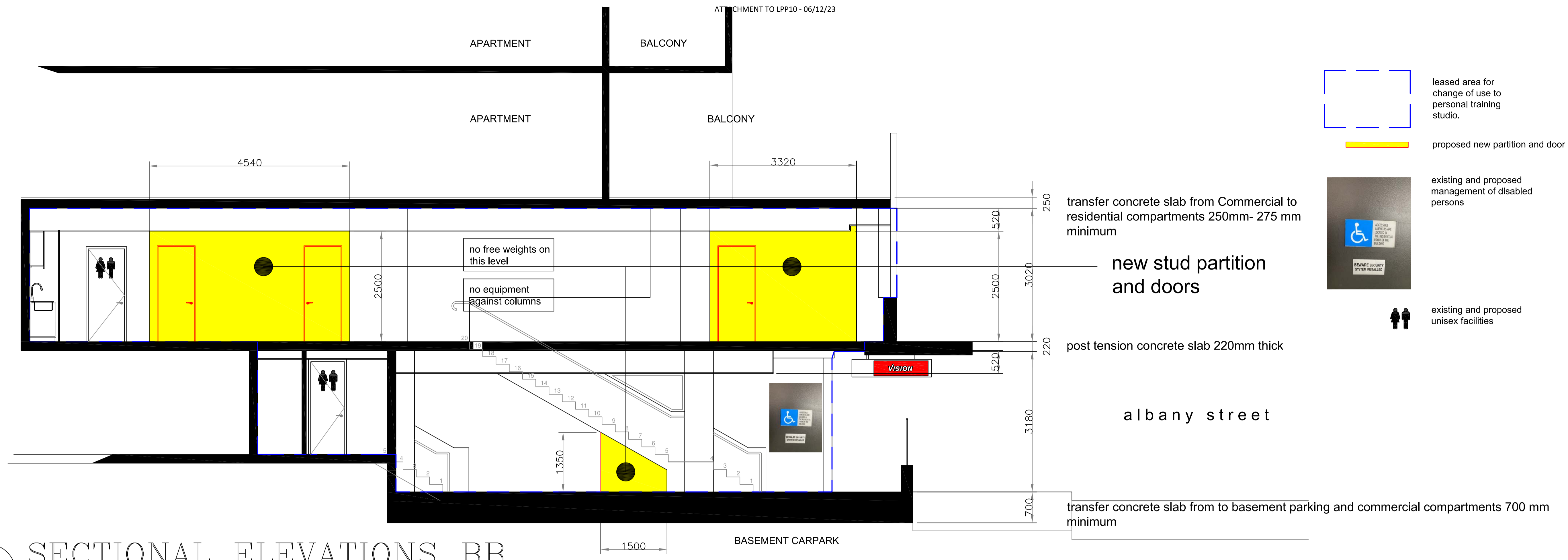
CLIENT  
NEIL GILLETT  
VISION PERSONAL TRAINING

PROJECT  
SP71980  
Shop 7 599 Pacific Hwy St Leonards  
Proposed Personal Training Studio

TITLE  
ELEVATIONS  
EXISTING

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leased area for change of use to personal training studio.



proposed new partition and door

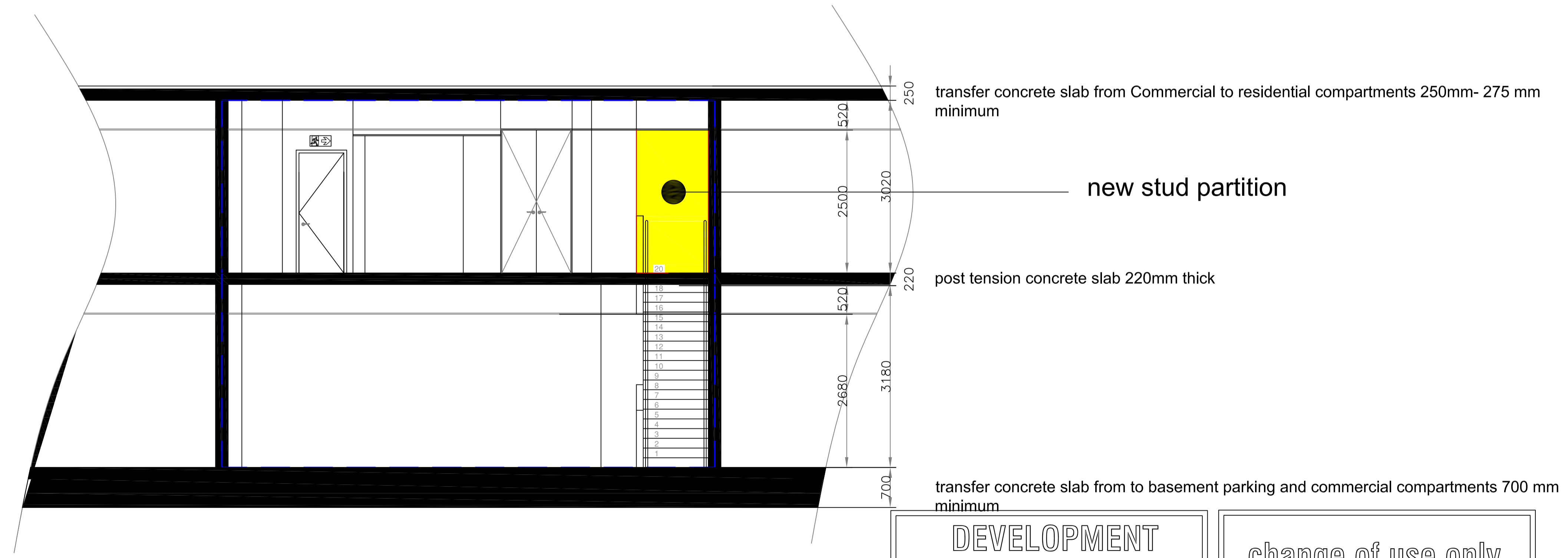


existing and proposed management of disabled persons



existing and proposed unisex facilities

14 SECTIONAL ELEVATIONS BB  
1:100



13 SECTIONAL ELEVATIONS AA  
1:100

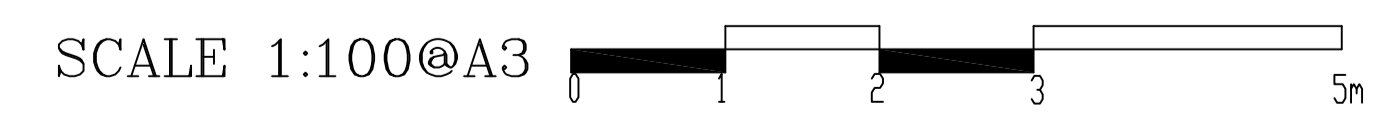
DEVELOPMENT APPLICATION

change of use only



all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.

no proposed works to external facades nor internal base building finishes including services.



issue:	amendment:	date:
A	DEVELOPMENT APPLICATION	JAN 2023
B	ADDITIONAL INFORMATION	SEP 2023

CLIENT: NEIL GILLETT  
VISION PERSONAL TRAINING

PROJECT: SP71980  
Shop 7 599 Pacific Hwy St Leonards  
Proposed Personal Training Studio

TITLE: SECTIONS PROPOSED

Scale: 1:100 @ A3  
Job No: VPTGILL01  
Checked: LG  
Approved: LG

Date: SEP 2023  
Plot date:  
Issue: B  
Drawing No: DA08B



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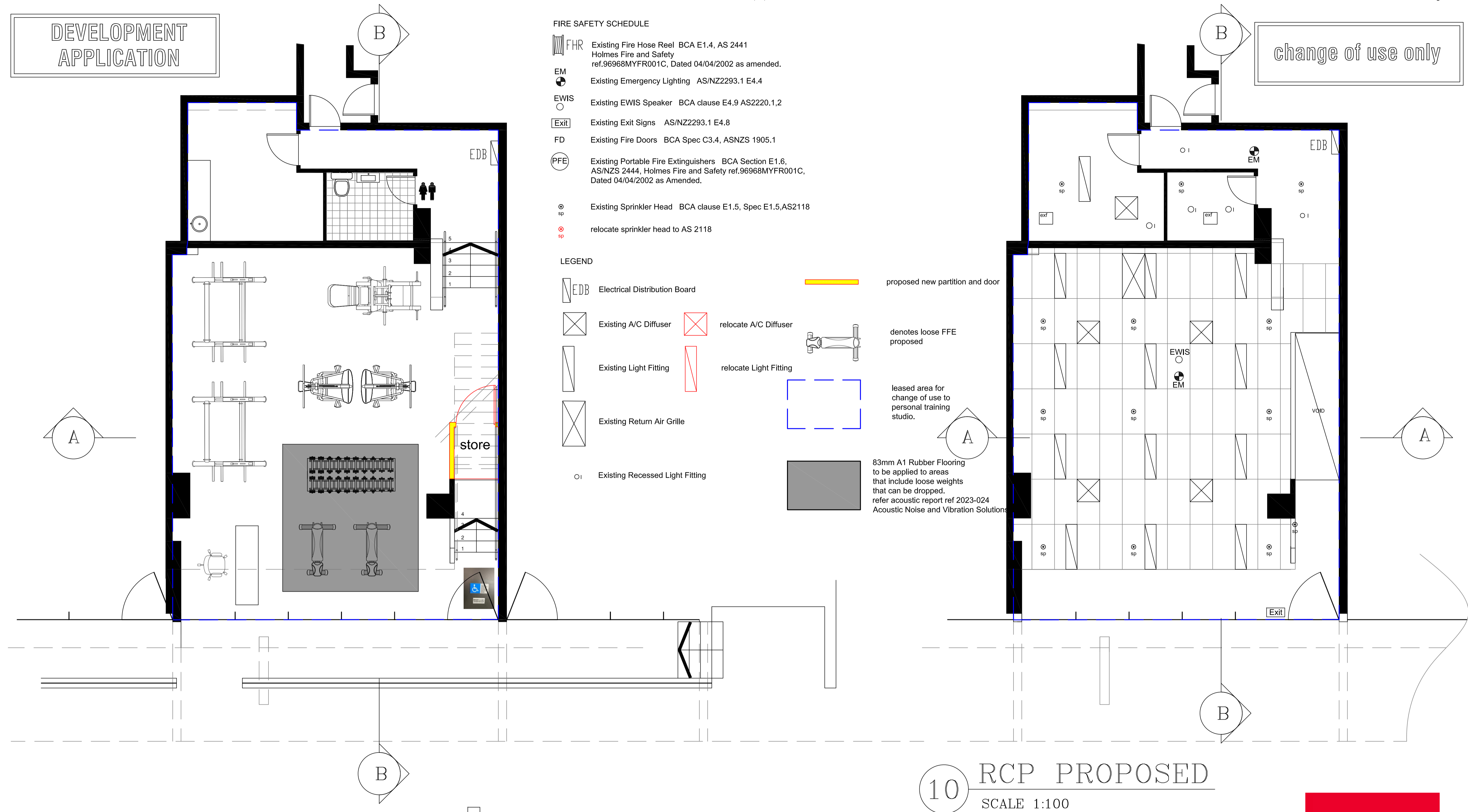
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DEVELOPMENT APPLICATION

change of use only

- FIRE SAFETY SCHEDULE**
- FHR** Existing Fire Hose Reel BCA E1.4, AS 2441  
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  - Exit** Existing Exit Signs AS/NZ2293.1 E4.8
  - FD** Existing Fire Doors BCA Spec C3.4, ASNZS 1905.1
  - PFE** Existing Portable Fire Extinguishers BCA Section E1.6, AS/NZS 2444, Holmes Fire and Safety ref.96968MYFR001C, Dated 04/04/2002 as Amended.
  - sp** Existing Sprinkler Head BCA clause E1.5, Spec E1.5,AS2118
  - sp** relocate sprinkler head to AS 2118

- LEGEND**
- E DB** Electrical Distribution Board
  - Existing A/C Diffuser
  - Existing Light Fitting
  - Existing Return Air Grille
  - Existing Recessed Light Fitting
  - proposed new partition and door
  - relocate A/C Diffuser
  - relocate Light Fitting
  - denotes loose FFE proposed
  - leased area for change of use to personal training studio.
  - 83mm A1 Rubber Flooring to be applied to areas that include loose weights that can be dropped. refer acoustic report ref 2023-024 Acoustic Noise and Vibration Solutions



10 RCP PROPOSED  
SCALE 1:100

2 hr P 2 hr P 2 hr P 2 hr P

albany street

# GROUND FLOOR EQUIPMENT PLAN

1:100

SCALE 1:100@A3

no proposed works to external facades nor internal base building finishes including services.

all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.



9

issue:	amendment:	date:
A	DEVELOPMENT APPLICATION	JAN 2023
B	ADDITIONAL INFORMATION	SEP 2023

CLIENT  
NEIL GILLETT  
VISION PERSONAL TRAINING

PROJECT  
SP71980  
Shop 7 599 Pacific Hwy St Leonards  
Proposed Personal Training Studio

TITLE  
FLOOR PLAN  
RCP

Scale: 1:100 @ A3  
Job No: VPTGILL01  
Checked: LG  
Approved: LG  
Date: SEP 2023  
Plot date:  
Issue: B  
Drawing No: DA06B

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DEVELOPMENT APPLICATION

change of use only

no proposed works to external facades nor internal base building finishes including services.

83mm A1 Rubber Flooring to be applied to areas that include loose weights that can be dropped. refer acoustic report ref 2023-024 Acoustic Noise and Vibration Solutions

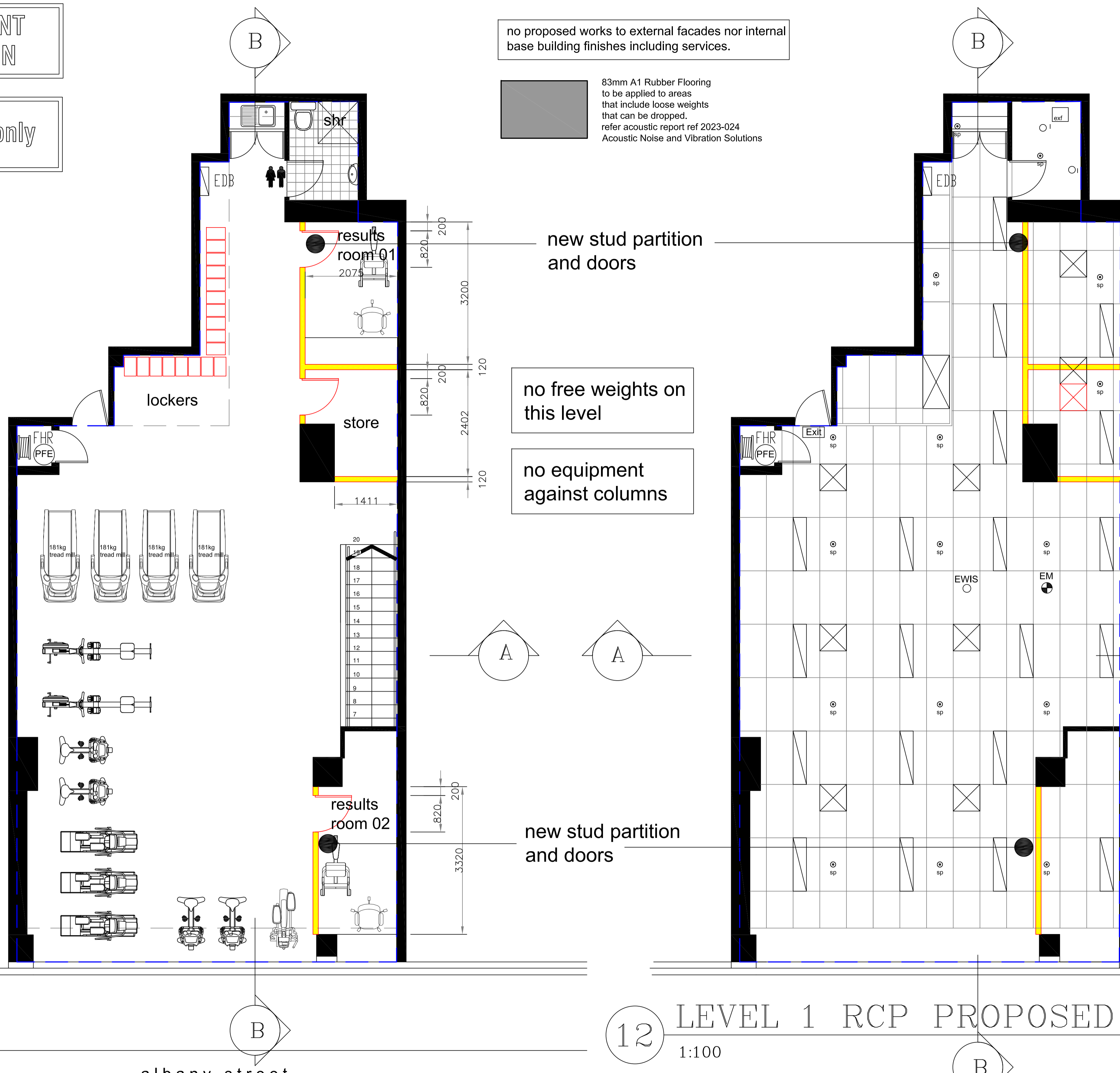
all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.

LEGEND

- Electrical Distribution Board
- Existing A/C Diffuser
- Existing Light Fitting
- Existing Return Air Gille
- proposed new partition and door
- denotes loose FFE proposed
- leased area for change of use to personal training studio.
- Existing Recessed Light Fitting
- relocate A/C Diffuser
- relocate Light Fitting

FIRE SAFETY SCHEDULE

- Existing Fire Hose Reel BCA E1.4, AS 2441 Holmes Fire and Safety ref.96968MYFR001C, Dated 04/04/2002 as amended.
- Existing Emergency Lighting AS/NZ2293.1 E4.4
- Existing EWIS Speaker BCA clause E4.9 AS2220.1,2
- Existing Exit Signs AS/NZ2293.1 E4.8
- Existing Fire Doors BCA Spec C3.4, ASNZS 1905.1
- Existing Portable Fire Extinguishers BCA Section E1.6, AS/NZS 2444, Holmes Fire and Safety ref.96968MYFR001C, Dated 04/04/2002 as Amended.
- Existing Sprinkler Head BCA clause E1.5, Spec E1.5,AS2118
- relocate sprinkler head to AS 2118



11 LEVEL 1 EQUIPMENT PLAN 1:100

12 LEVEL 1 RCP PROPOSED 1:100

SCALE 1:100@A3

Scale: 1:100 @ A3  
 Date: SEP 2023  
 Job No: VPTGILL01  
 Plot date:  
 Checked: LG  
 Issue: B  
 Approved: LG  
 Drawing No: DA07B



issue: amendment: date: CLIENT  
 A DEVELOPMENT APPLICATION JAN 2023 NEIL GILLETT  
 B ADDITIONAL INFORMATION SEP 2023 VISION PERSONAL TRAINING

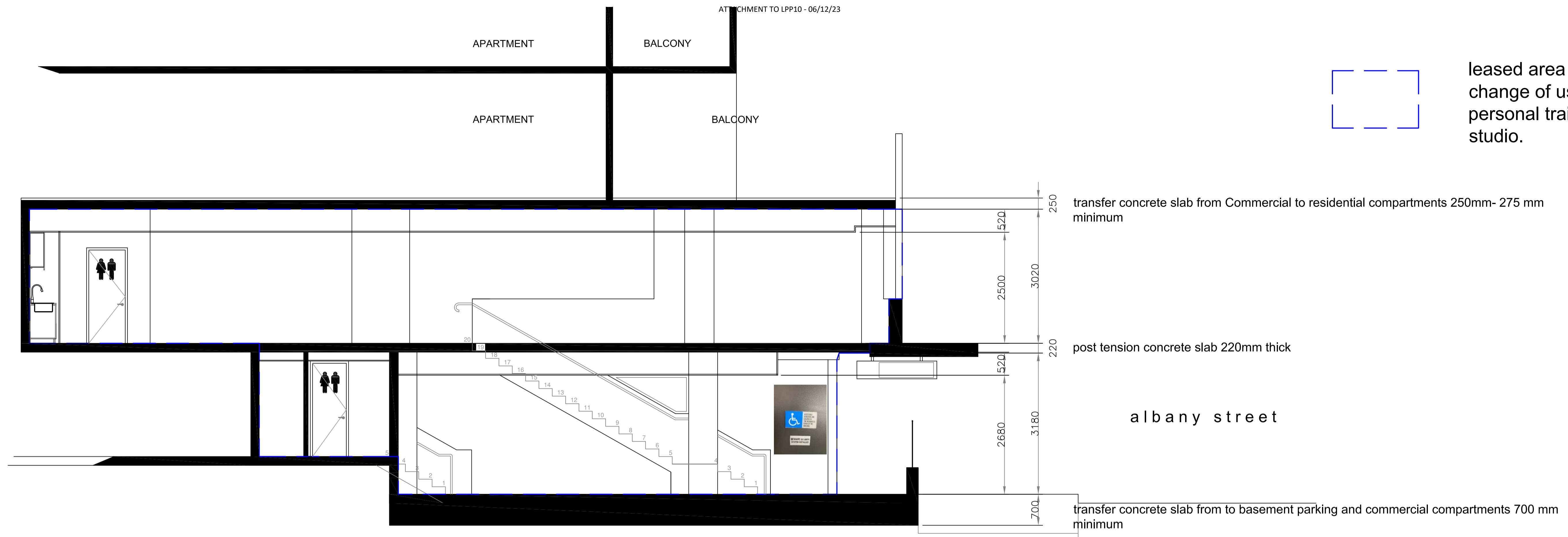
PROJECT SP71980  
 Shop 7 599 Pacific Hwy St Leonards  
 Proposed Personal Training Studio

TITLE  
 FLOOR PLAN  
 RCP PROPOSED

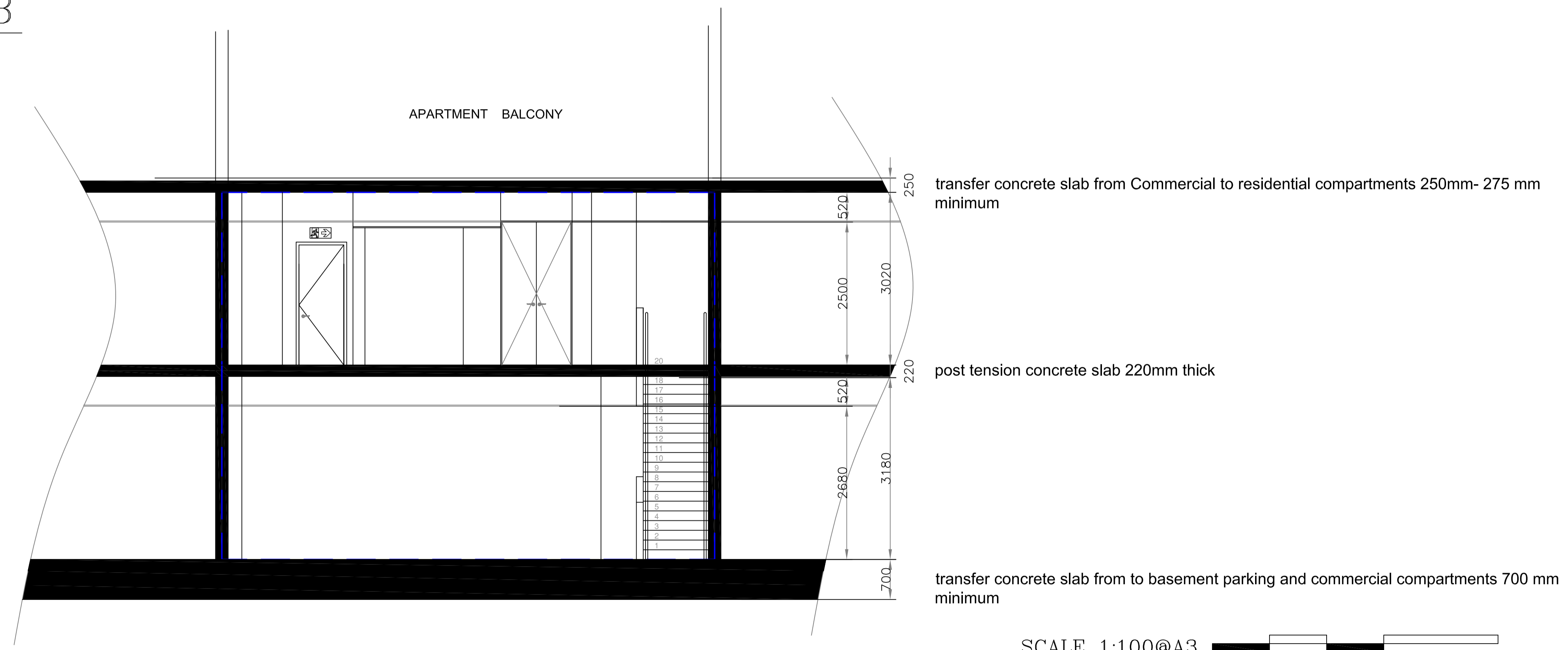
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8 SECTION BB  
1:100



7 SECTION AA  
1:100

DEVELOPMENT APPLICATION

change of use only

SCALE 1:100@A3



all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.

no proposed works to external facades nor internal base building finishes including services.

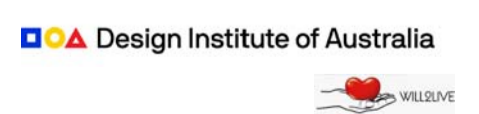
issue:	amendment:	date:
A	DEVELOPMENT APPLICATION	DEC 2022
B	ADDITIONAL INFORMATION	SEP 2023

CLIENT  
NEIL GILLETT  
VISION PERSONAL TRAINING

PROJECT  
SP71980  
Shop 7 599 Pacific Hwy St Leonards  
Proposed Personal Training Studio

TITLE  
SECTIONS

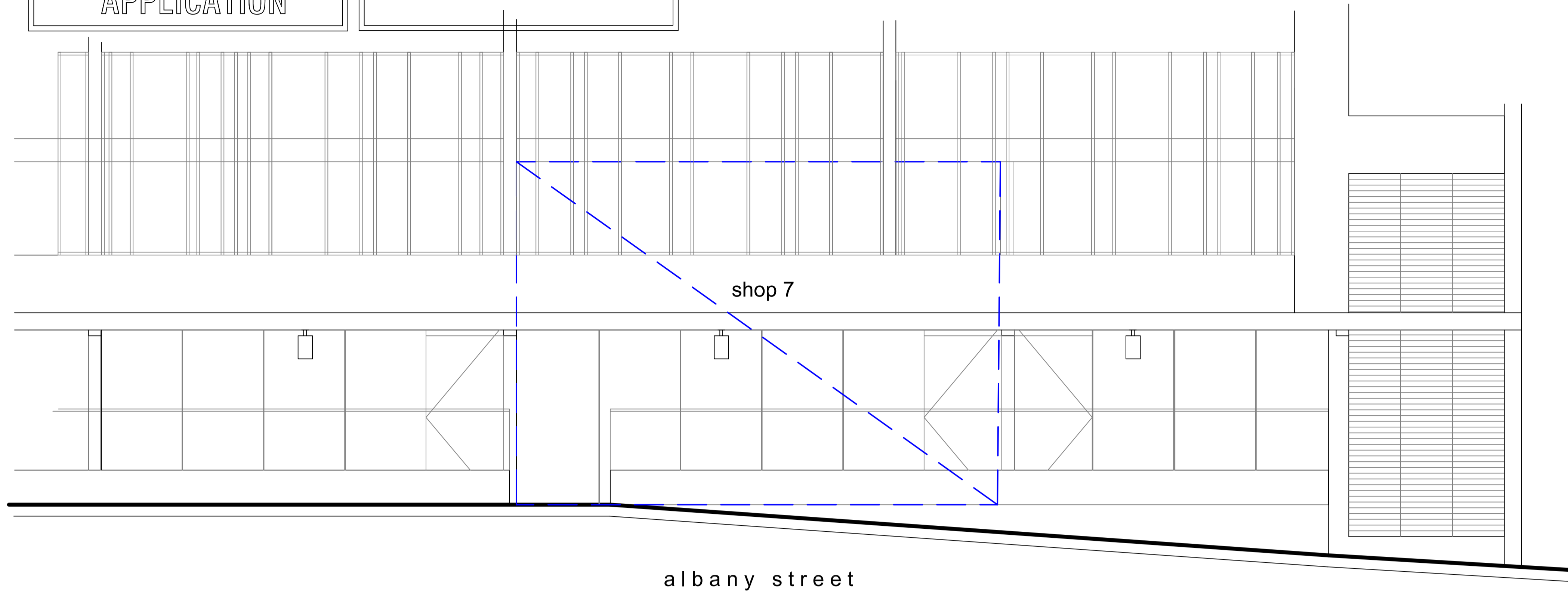
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Job No: VPTGILL01  
Checked: LG  
Approved: LG  
Date: SEP 2022  
Plot date:  
Issue: A  
Drawing No: DA05B



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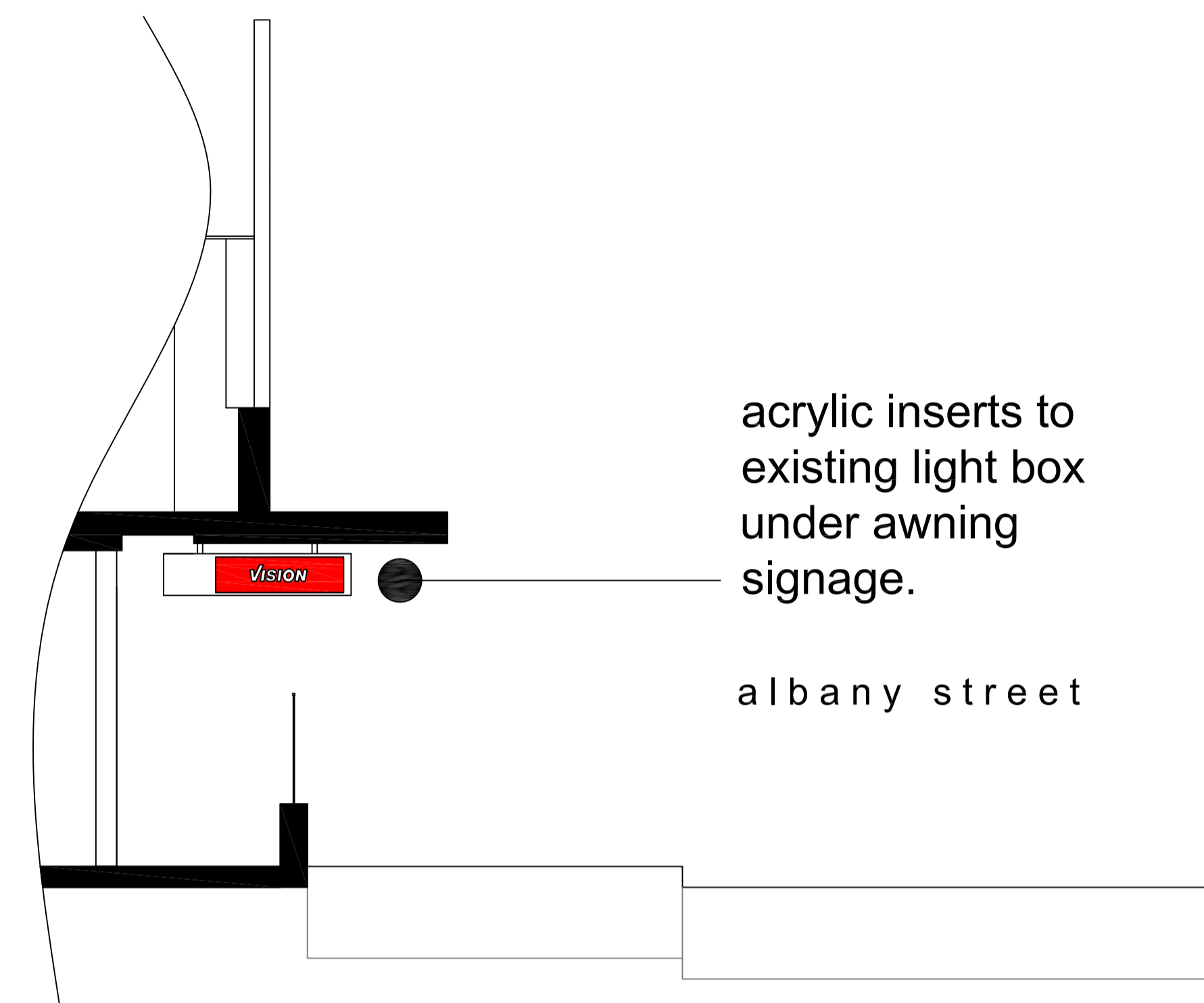
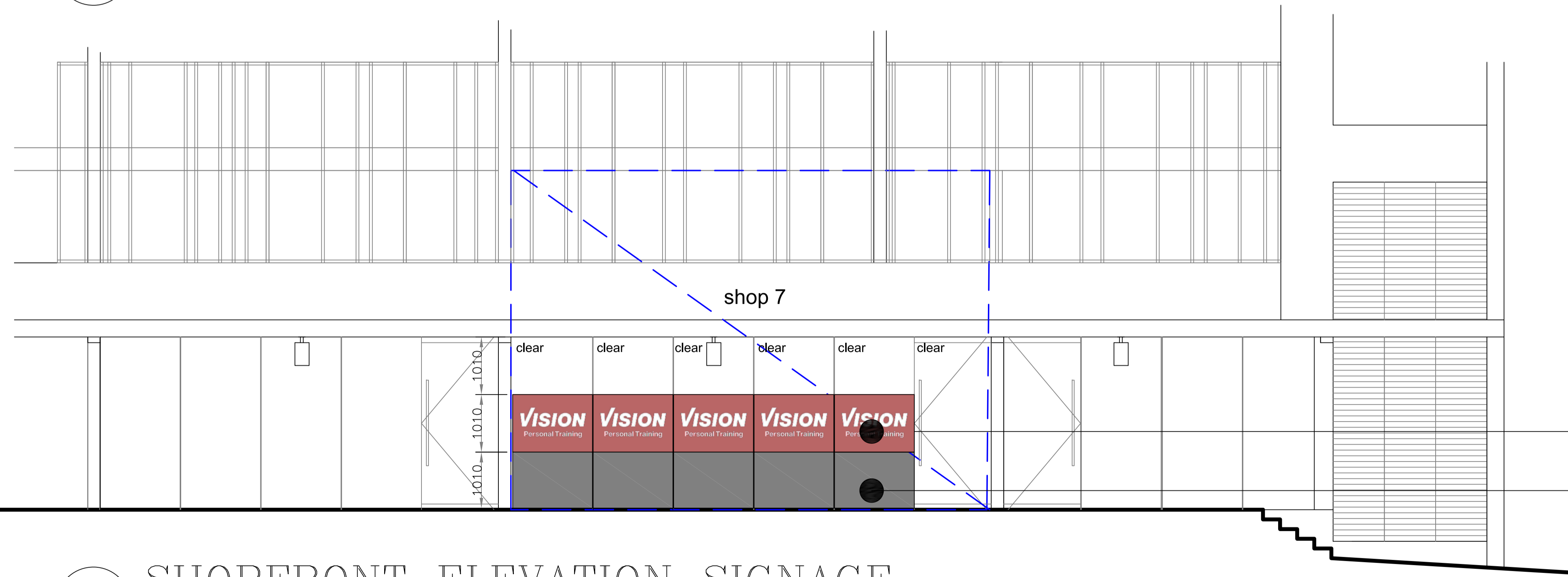
DEVELOPMENT APPLICATION change of use only



leased area for change of use to personal training studio.

### 16 STREET ELEVATION SIGNAGE

1:100



acrylic inserts to existing light box under awning signage.

albany street

### 17 SHOPFRONT SECTION

1:100

proposed vinyl one way vision to mid of existing glazed shopfront.  
proposed frosted lower of existing glazed shopfront.

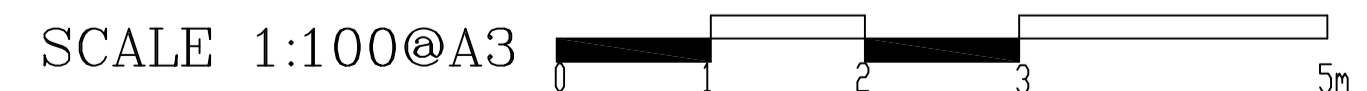


### 15 SHOPFRONT ELEVATION SIGNAGE

1:100

all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.

no proposed works to external facades nor internal base building finishes including services.



Scale: 1:100 @ A3  
Job No: VPTGILL01  
Checked: LG  
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Date: JAN 2023  
Plot date:  
Issue: A  
Drawing No: DA09A



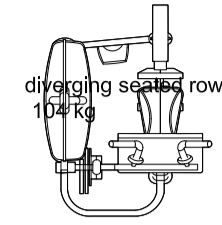
issue: A  
amendment: DEVELOPMENT APPLICATION  
date: JAN 2023

CLIENT: NEIL GILLETT  
VISION PERSONAL TRAINING  
PROJECT: SP71980  
Shop 7 599 Pacific Hwy St Leonards  
Proposed Personal Training Studio

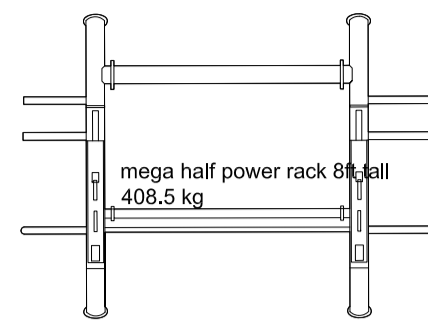
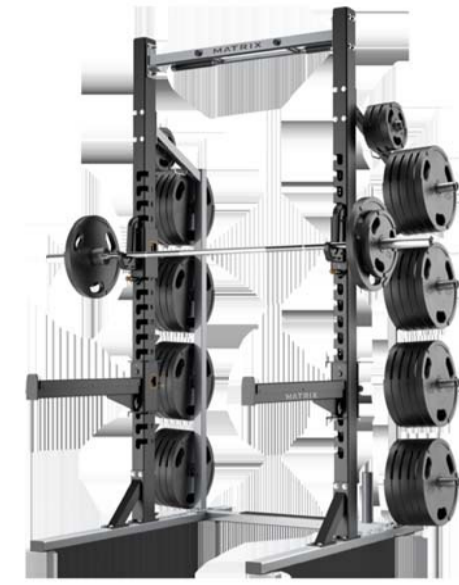
TITLE: ELEVATIONS  
SIGNAGE PROPOSED

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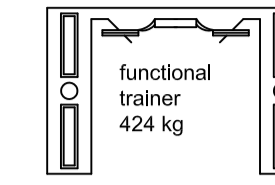
MGM0764-29 versa diverging seated row x1 104 kg



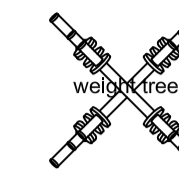
MPR0097-39 magnum mega half power rack 8ft tall x2 408.5 kg



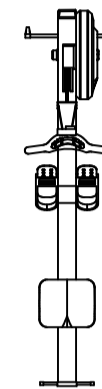
MCS1173-11AU climbmill X1 147.1 kg



MGM0632 -7000 versa functional trainer x1 424 kg



weight tree



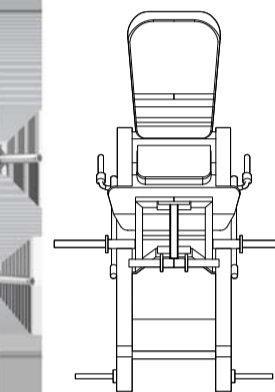
concept 2 rowing machine X2



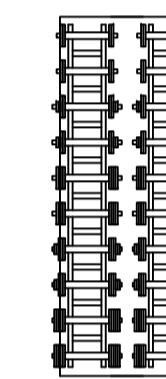
MTM1454-11 treadmill x3 181kg



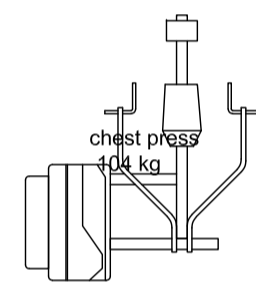
MCB1040-11 upright cycle X2 89.1 kg



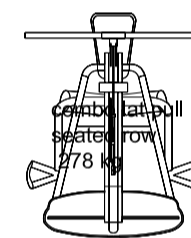
MPL0054-70700 magnum leg press x1 490 kg



dumbbell rack



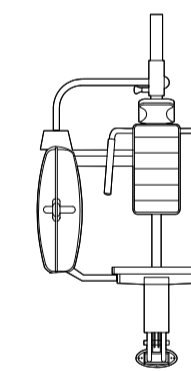
MGM0750-29 versa converging chest press x1 104 kg



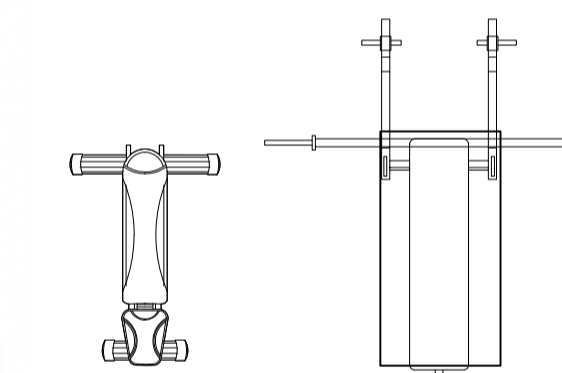
MGM0767-29 versa combo lat pull seated row x2 278 kg



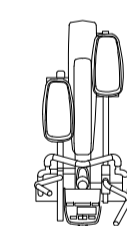
matrix spin bike X2



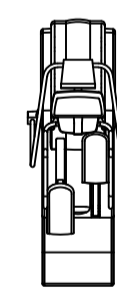
MGM0763-29 versa plus combo chin dip assist x1 307 kg



MG-A82 Multi Adjustable Bench 55 KG x 2



MEP1553-11 Elliptical suspension X2 181kg



matrix elliptical trainer X1

# 16 EQUIPMENT SCHEDULE

SCALE 1:100

SCALE 1:100@A3



DEVELOPMENT APPLICATION

change of use only



all furniture fittings and equipment for the use as a personal training studio are freestanding and not fixed to the building.

no proposed works to external facades nor internal base building finishes including services.

issue: A  
amendment: DEVELOPMENT APPLICATION  
date: JAN 2023

CLIENT  
NEIL GILLET  
VISION PERSONAL TRAINING

PROJECT  
SP71980  
Shop 7 599 Pacific Hwy St Leonards  
Proposed Personal Training Studio

TITLE  
EQUIPMENT

Scale: 1:100 @ A3  
Job No: VPTGILL01  
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Phone: (02) 9793 1393

Email: [info@acousticsolutions.com.au](mailto:info@acousticsolutions.com.au)

# *Acoustic & Vibration Impact Report*

## For

### **Proposed Personal Training Studio at Shop7, No. 599 Pacific Hwy, St Leonards.**

**Prepared by: Domeniki Tsagaris (M.I.E. Aust), B.E. (UNSW)**

Australian Acoustical Society (Sub).

**Approved by: Moussa Zaioor (M.I.E. Aust), CPENG,**

Australian Acoustical Society (Member).

**Date: February 14<sup>th</sup>, 2023**

**Reference No.: 2023-024 Rev.1**

Acoustic Report – Shop 7 No. 599 Pacific Hwy, St Leonards  
Reference No.: 2023-024 Rev.1

## **Document Control**

<i>Date</i>	<i>Revision History</i>	<i>Prepared By:</i>	<i>Reviewed and Authorised by:</i>
16/01/2023	Initial Report	Domeniki Tsagaris	Moussa Zaioor
13/02/2023	Draft Report		Moussa Zaioor
14/02/2023	Final report	Moussa Zaioor	Moussa zaioor
14/02/2023	Rev.1		Moussa zaioor

Acoustic Report – Shop 7 No. 599 Pacific Hwy, St Leonards  
Reference No.: 2023-024 Rev.1

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Reference No.: 2023-024 Rev.1

## **1.0 SCOPE OF WORK**

Acoustic, Vibration & Noise Pty Ltd was engaged to investigate the environmental noise & vibration impact of the proposed Personal Training Studio at Shop 7, No. 599 Pacific Hwy, St Leonards (Figure 1 – Site Location) on the surrounding environment, as per North Sydney Council requirements.

This report is carried out in accordance with NSW Environmental Protection Authority (EPA) Noise Policy for Industry (2017), Noise Guide for Local Government, Protection of the Environment Operations Act 1997 (POEO) and general North Sydney Council requirements.

This commission involves the following:

- Inspect the site and environs.
- Measure the background noise levels at critical locations and times.
- Prepare an Environmental Noise Impact Report.
- Establish acceptable noise level criterion.
- Quantify noise emissions from the proposed Training Centre
- Calculate the level of noise emission, taking into account building envelope, transmission loss, screen walls and distance attenuation.
- Provide in principle noise control recommendations (if necessary).

The following report has been prepared in conjunction with the Statement of Environmental Effects by Vision PT dated January 2023 .

## **2.0 SITE & OPERATIONS DESCRIPTION**

The proposed **Personal Training Studio** will occupy existing commercial space Shop 7 on the ground floor of an existing mixed-use building at No. 599 Pacific Hwy, St Leonards. (Figure 2 – Proposed Site Plan).

The site is located within a mixed-use environment with commercial development located directly east, north and south of the site (Figure 3 – Surrounding Environment).

For the purpose of this report, the nearest potentially affected receivers will be the residential apartments located directly above the proposed training studio Apartment E1.09 – R1 & Apartment E1.10 – R2 (Figures 4 – Nearest Residential Receivers Above Proposed Personal Training Studio).

Acoustic Report – Shop 7 No. 599 Pacific Hwy, St Leonards  
Reference No.: 2023-024 Rev.1

Patrons are expected to live or work in the surrounding area, therefore traveling to the training studio will be made on foot or by public transport (bus services are readily available on surrounding streets).

The existing building on the corner of Pacific Hwy & Albany St includes basement parking. The tenancy at Shop 7 has allocated the two (2) parking spaces in the basement car park.

The proposed training studio will have the following operational details:

<b>Location</b>	<b>Hours of Operation</b>	<b>Max No. of Patrons/Staff</b>	<b>Operational Description</b>
Shop 7 Training Studio	Monday – Friday: 5:30 am-8:00 pm Saturday 8:00am-1pm Sunday- Closed	Twenty (20) Patrons plus two (2) staff members and one (1) personal trainer	Gymnasium – <i>Training only</i>

The existing background noise is dominated by noise generated by the adjacent industrial/commercial environment (including all associated mechanical plant & equipment) and traffic noise generated by Pacific Hwy and Albany St.

The noise & vibration emissions from the operation of training studio must not exceed the acceptable levels at the nearby receptor locations. Noise control will be required for the proposed Training S to comply with the noise criteria set out in Section 4 of this report. The noise and vibration controls in Section 6 of this report are reasonable and feasible in reducing the noise from the proposed premises to an acceptable level.

---

### **3.0 NOISE ASSESSMENT, INSTRUMENTATION & RESULTS**

On the 31<sup>st</sup> January 2023, unattended noise measurements were carried out on site in order to determine existing background noise levels. The unattended noise survey was carried out for a period of seven (7) days between the 31<sup>st</sup> January, 2023 and the 6<sup>th</sup> February, 2023 on the balcony of the nearest receiver above Shop 7. (Figure 5 – Unattended Noise Reading Location Point A).



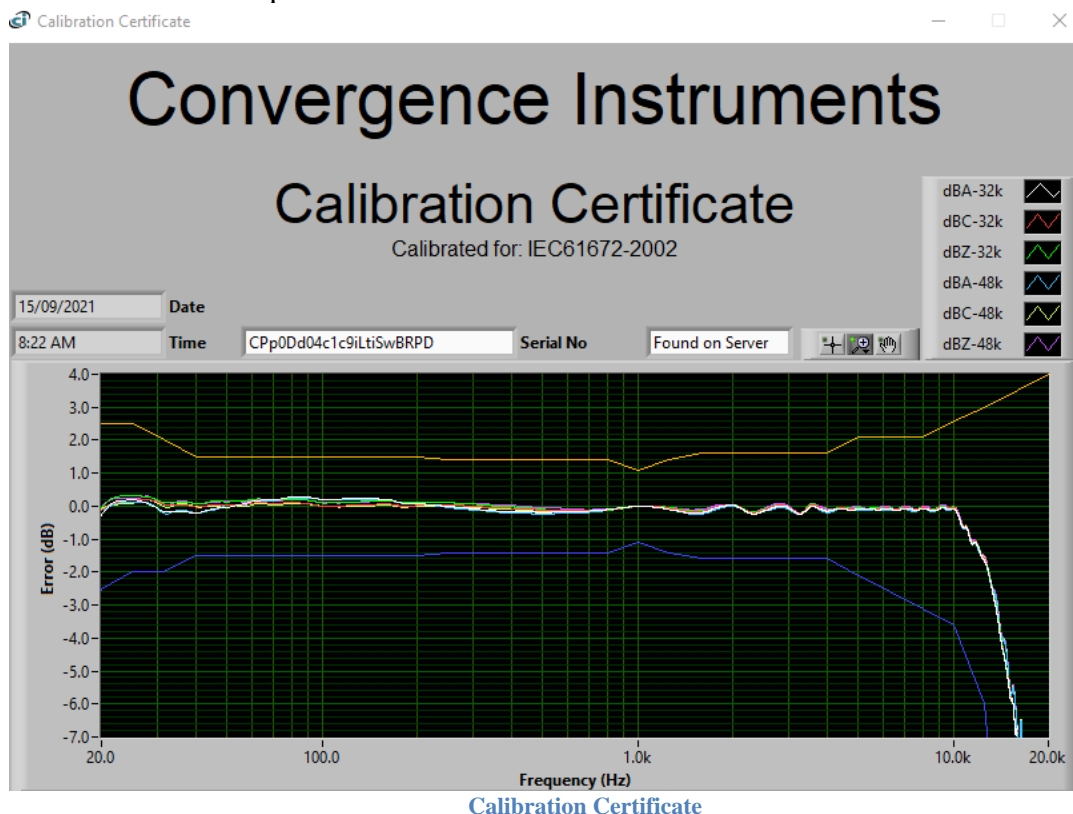
Acoustic Report – Shop 7 No. 599 Pacific Hwy, St Leonards  
Reference No.: 2023-024 Rev.1

The noise surveys were conducted to determine a conservative reading of the existing  $L_{(A90, 15 \text{ minutes})}$  and  $L_{(Aeq, 15 \text{ minutes})}$  during the Day & Evening [7:00 – 22:00] & Night/Early Morning [22:00 – 7:00].

Unattended sound level measurements and analysis performed throughout this project are carried out with a NSRTW\_MK3 wireless sound level data loggers (Serial No. CPp0Dd04c1c9iLtiSwBRPD- Office tag -machine 1-) . The sound logger specifications are as follows:

- Type 1 digital MEMS microphone
- Non-volatile 128 Mb recording memory
- Records L-max, L-min and Leq levels
- Log interval adjustable from 125 ms (8 points per second) up to hours
- A, C and Z weighting curves
- Oscilloscope and spectrum analyser features
- Observes and records 100% of the acoustic signal.
- Software calculates global Leq according to ISO and OSHA methods.
- WIFI connectivity to report measured levels remotely.
- Weatherproof casing designed for indoor/outdoor applications.
- Activity detection and logging.
- Long-term measurement and recording of acoustic levels for environmental impact studies.

The loggers are factory calibrated and front logger manufacturer's calibration certificate dated 15/09/2021 is presented below:



Acoustic Report – Shop 7 No. 599 Pacific Hwy, St Leonards  
Reference No.: 2023-024 Rev.1

The microphone was positioned at 1.5m from ground level. The machines were calibrated prior and after reading using our Svantek SV 33A S/N: 90200 class 1 Calibrator with No significant drift recorded. Any readings affected by strong wind or rain have been disregarded. A Summary of those readings are presented in the tables below:

**Table 3.0 - Existing Noise Survey Results at Point A**  
2<sup>nd</sup> July, 2021 – 9<sup>th</sup> July, 2021

<i>Measurement Location</i>	<i>Time Period</i>	<i>L<sub>Aeq</sub> 15min dB(A)*</i>	<i>L<sub>A90</sub> 15min dB(A)</i>	<i>(RBL)** dB(A)</i>
<b>Point A –</b>	<i>Day (7am-6pm)</i>	65	60	59
	<i>Evening 6pm-10pm</i>	62	56	53
	<i>Night/Early Morning (6pm-7am)</i>	57	49	46

\*Site is mainly affected by traffic noise from Pacific Hwy

\*\*RBL is calculated as per Fact Sheet B of the NPfI (2017)

The Full Average Statistical Noise Parameters L(Aeq, 15 minutes), L(A90, 15 minutes), L(A10, 15 minutes), L(A1, 15 minutes) at Point A are presented in Figure 6 – Noise Survey Point A.

## **4.0 ACCEPTABLE NOISE LEVELS**

### **4.1 NOISE GUIDE FOR LOCAL GOVERNMENT**

The Department of Environment and Conservation (NSW) published the amended *Noise Guide for Local Government* in October 2010. The policy is specifically aimed at assessing noise from light industry, shops, entertainment, public buildings, air conditioners, pool pumps and other noise sources in residential areas.

Section 2.2.3 of the Noise Guide for Local Government recommends noise measurements and an intrusive noise level when attempting to achieve acceptable and achievable noise limits.

Section 2.2.1 of the Noise Guide for Local Government states that a noise source is generally considered to be intrusive if the noise from the source when measured over a 15-minute period exceeds the background noise by more than 5 dB(A). Therefore, the noise criteria are as follows:

- **Day period:**                **60 + 5 = 65 dB(A)**
- **Evening period:**        **56 + 5 = 61 dB(A)**
- **Night period:**            **49 + 5 = 54 dB(A)**

Acoustic Report – Shop 7 No. 599 Pacific Hwy, St Leonards  
Reference No.: 2023-024 Rev.1

The appropriate regulatory authority (Local Council) may, by notice in writing given to such a person, prohibit the person from causing, permitting or allowing:

1. any specified activity to be carried on at the premises, or
2. any specified article to be used or operated at the premises.

or both, in such a manner as to cause the emission from the premises, at all times or on specified days, or between specified times on all days or on specified days, of noise that, when measured at any specified point (whether within or outside the premises,) is in excess of a specified level.

It is an offence to contravene a noise control notice. Prior to being issued with a noise control notice, no offence has been committed.

#### **4.1.1 SLEEP DISTURBANCE**

In order to minimize the potential of sleep disturbance due to transient noises from the fitness centre during night hours (10:00pm – 7:00am), Section 2.2.4 of the Noise Guide For Local Government recommends that  $L_{A1,1\text{-minute}}$  level of any noise outside a bedroom should not exceed the background noise level by more than 15dB.

$$L_{A1,1\text{ minute}} \leq 49 + 15 = 64 \text{ dB(A) outside window of residential receiver}$$

Similar text about sleep arousal is adopted in the Noise Policy for Industry 2017 as below:

**Where the subject development/premises night-time noise levels at a residential location exceed:**

- $L_{Aeq,15\text{min}}$  **40 dB(A) or the prevailing RBL plus 5 dB, whichever is the greater, and/or**
- $L_{AF\text{max}}$  **52 dB(A) or the prevailing RBL plus 15 dB, whichever is the greater,**

**a detailed maximum noise level event assessment should be undertaken.**

Further studies by the enHealth Council (2004) and the guidelines published by the World Health Organisation (1999) were reviewed and analysed in terms of the guidance on noise exposure and sleep disturbance. The enHealth report states that:

*'as a rule for planning for short-term or transient noise events, for good sleep over 8 hours the indoor sound pressure level measured as a maximum instantaneous value should not exceed approximately 45 dB(A)  $L_{A,(Max)}$  more than 10 or 15 times per night'.*

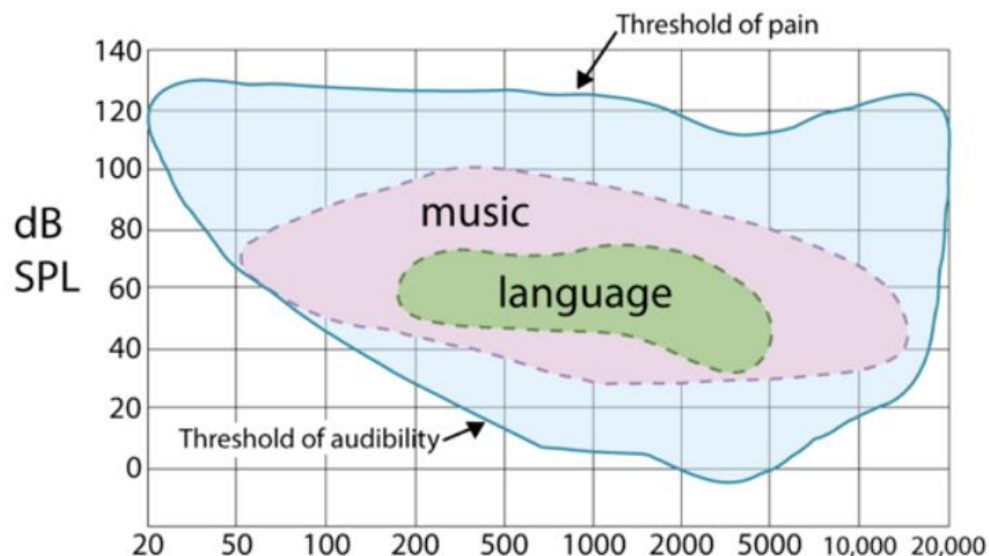
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#### **4.2 THE PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997 (POEO ACT) OFFENSIVE NOISE & INAUDIBILITY**

*The Protection of the Environment Operations Act 1997* (POEO Act) and the **POEO (Noise Control) Regulation 2008** defines *offensive noise* as a noise which is likely to be harmful to, or to interfere unreasonably with people outside the premises from which the noise is emitted. The interference or harm could come from the level, or the type of noise.. The noise from the operation of the Personal Training Centre is to be not audible inside the nearest residential receiver between the following time periods:

- Monday to Saturday: 10:00pm – 7:00am, and
- Sunday & Public Holidays: 10:00pm – 8:00am.

Noise levels arising from the Personal Training Studio are to be inaudible between the hours of 10:00pm – 7:00am between Monday and Friday (i.e. noise levels to be below the threshold of audibility on all octave bands as presented in figure below or below Leq of 28 dB(A) ).



#### **4.3 NSW NOISE POLICY FOR INDUSTRY (2017)**

The noise from the proposed Training Studio is governed under Section 2 of the Noise Policy for Industry 2017. The above policy seeks to promote environmental well-being through preventing and minimizing noise by providing a framework and process for deriving noise limits conditions for consent and licenses.

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The Noise Policy for Industry 2017 recommends two separate noise criteria to be considered, the Intrusive Noise Criteria and the Amenity Noise Criteria. A project noise trigger level being the lowest of the amenity and the intrusiveness noise level is then determined.

If the predicted noise level  $L_{Aeq}$  from the proposed project exceeds the noise trigger level, then noise mitigation is required. The extent of any ‘reasonable and feasible’ noise mitigation required whether at the source or along the noise path is to ensure that the predicted noise level  $L_{Aeq}$  from the project at the boundary of most affected residential receiver above is not greater than the noise trigger level.

#### **4.3.1 AMENITY NOISE CRITERIA**

The amenity noise levels presented for different residential categories are presented in Table 2.2 of the Noise Policy for Industry 2017. These levels are introduced as guidance for appropriate noise levels in residential areas surrounding industrial areas.

For the proposed training studio at Shop 7 No. 599 Pacific Hwy, St Leonards, the recommended amenity noise levels are presented in table 4.3.1.1 below:

**Table 4.3.1.1- Recommended Amenity Noise levels**

<b>Type of Receiver</b>	<b>Noise Amenity Area</b>	<b>Time of Day</b>	<b>Recommended Leq Noise Level, dB(A)</b>
Residence	Urban	Day	60
		Evening	50
		Night	45
Commercial	All	When in Use	65
Industrial	All	When in Use	70

Where a noise source contains certain characteristics such as tonality, impulsiveness, intermittency, irregularity or dominant low-frequency content, a correction is to be applied which is to be added to the measured or predicted noise levels at the receiver, before comparison with the criteria. Shown below are the correction factors that are to be applied:

**Table 4.3.1.2 – Modifying Factor Corrections as per Fact Sheet C (Noise Policy for Industry 2017)**

<b>FACTOR</b>	<b>CORRECTION</b>
Tonal Noise	+ 5 dB
Low Frequency Noise	+ 5 dB
Impulsive Noise	Apply difference in measured fast and impulse response levels, as the correction, up to a maximum of 5 dB.
Intermittent Noise	+ 5 dB

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According to Section 2.4 of the above policy, the project amenity noise level is determined as follows:

**Project amenity noise level for industrial developments = recommended amenity noise level (Table 2.2) minus 5 dB(A)**

To convert from a period level to a 15-minute level, a plus 3 is added as per section 2.2 of the policy.

Therefore, the project amenity noise levels for the proposed training studio are as follows:

**Day Time:**                 $60 - 5 + 3 = 58 \text{ dB(A)}$   
**Evening Time:**         $50 - 5 + 3 = 48 \text{ dB(A)}$   
**Night-time:**             $45 - 5 + 3 = 43 \text{ dB(A)}$

#### **4.3.2 INTRUSIVE NOISE CRITERIA**

Section 2.3 of the Noise Policy for Industry summarizes the intrusive criteria as below:

$$L_{Aeq,15 \text{ minute}} \leq \text{rating background level plus 5}$$

While the background noise level known as  $L_{A90,15 \text{ minutes}}$  is the Noise exceeded 90% percent of a time period over which annoyance reactions may occur (taken to be 15 minutes). The RBL is defined as the overall single-figure  $L_{A90,15 \text{ minutes}}$  background level representing each assessment period (day/evening/night) over the whole monitoring period.

For the short-term method, the rating background noise level is simply the lowest measured  $L_{AF90,15 \text{ min}}$  level. For the long-term method, the rating background noise level is defined as the median value of the daily/evening/night lowest tenth percentile of  $L_{90}$  background noise levels and calculated in accordance with Fact Sheet B of the NPfI 2017.

The predicted noise from the source  $L_{Aeq,15 \text{ min}}$  is measured at the boundary of the residential receiver at the point where the most impact occurs. Therefore, the acceptable  $L_{eq}$  noise intrusiveness criterion for broadband noise is as follows:

- $59 + 5 = 64 \text{ dB (A)}$  during the day
- $53 + 5 = 58 \text{ dB (A)}$  during the evening
- $46 + 5 = 51 \text{ dB (A)}$  during the night

#### **4.3.3 PROJECT NOISE TRIGGER LEVEL**

A summary of intrusiveness and amenity noise levels as determined in sections 4.3.1 & 4.3.2 are shown in table 4.3.3.1 below:

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**Table 4.2.3.1 - Summary of Intrusive and Amenity noise levels**

<b>Period</b>	<b>Intrusiveness Noise Level</b>	<b>Project Amenity Noise level</b>
<b>Day Time (7:00am – 6:00pm)</b>	64	58
<b>Evening Time (6:00pm – 10:00pm)</b>	58	48
<b>Night-Time (10:00pm – 7:00am)</b>	51	43

The project noise trigger level is the lower (that is, the most stringent) value of the amenity and intrusiveness noise levels for the day and evening. Therefore, the project noise trigger levels for the proposed development are as shown below:

- **Daytime:**  $L_{Aeq,15 \text{ min}}$  **58 dB(A)**
- **Evening-time:**  $L_{Aeq,15 \text{ min}}$  **48 dB(A)**
- **Night-Time:**  $L_{Aeq,15 \text{ min}}$  **43 dB(A)**

#### **4.4 TRAFFIC NOISE GENERATION CRITERIA**

The Road Noise Policy in table 3, page 11 states that the Leq (1 hour) level of noise intrusion from land use developments with potential to create additional traffic on local roads should not exceed 55 dB(A) during the day time (7am to 10pm) and 50 dB(A) during night time (10pm to 7am).

#### **4.5 DEPARTMENT OF ENVIRONMENT & CONSERVATION NSW 'ASSESSING VIBRATION: A TECHNICAL GUIDELINE'**

In addition to noise limits, floor vibration levels in habitable rooms should comply with the Department of Environment & Conservation NSW document titled '*Assessing Vibration: A Technical Guideline*'. Most of these vibration limits stated in the document above are adopted from the British Standard BS 6472-1:2008 '*Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80 Hz)*' criteria.

*Acceptable Vibration Values are presented in Table 5.1 below as per NSW EPA Assessing Vibration: A Technical Guideline.*

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**Table 5.1- Acceptable Vibration Dose Value for Intermittent Vibration (m/s<sup>1.75</sup>)**

Location	Daytime <sup>1</sup>		Night-time <sup>1</sup>	
	Preferred value	Maximum value	Preferred value	Maximum value
Critical areas <sup>2</sup>	0.10	0.20	0.10	0.20
Residences	0.20	0.40	0.13	0.26
Offices, schools, educational institutions and places of worship	0.40	0.80	0.40	0.80
Workshops	0.80	1.60	0.80	1.60

## **5.0 NOISE & VIBRATION EMISSIONS FROM PROPOSED TRAINING STUDIO**

The main sources of noise from the proposed Personal Training Studio may include but are not limited to:

- Noise emission from Mechanical Plant & Equipment
- Noise from Patrons' cars accessing the site
- Noise and vibration impact from Indoor Training Studio Operations (weights and patrons including background music)

### **5.1 MECHANICAL PLANT & EQUIPMENT**

The existing air-conditioning system used in the building is to be retained and utilized for the proposed shops. No new mechanical plant is proposed to be installed at this stage.

Provided recommendations in Section 6.0 of this report are adhered to, the existing mechanical plant will not produce any additional offensive noise for the nearest potential receiver as background noise levels are dominated by existing mechanical plant & equipment for the multi-storey building located at the corner of Pacific Hwy & Albany St St Leonards ; as well as operation of adjacent existing commercial/industrial properties.

### **5.2 TRAFFIC & PARKING NOISE EMISSIONS**

Two (2) parking spaces are currently allocated to Shop 7 commercial tenancy in the basement parking of the multi-storey building located at the corner of Pacific Hwy & Albany St. No changes will be made to the pre-allocated number of spaces. Access to the basement parking will be from Albany Lane.

The Personal Training Studio are expected to live or work in the surrounding area and therefore the majority will access the proposed site by foot, bicycle or public transport.

The noise levels due to vehicles arriving and departing the site in addition to noise from additional traffic generation is governed by existing DA approval as No New Car parking spaces are allocated for the Personal Training Studio.



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### **5.3 NOISE & VIBRATION IMPACT FROM WEIGHTS & PATRONS INSIDE THE TRAINING STUDIO**

The proposed training studio will offer weight training only with free weights available for patrons to use. A maximum of twenty (20) patrons are expected at any one time with two (2) staff members with background music being played.

The sound power level of male and female vocal levels (at any octave band centre frequency) is shown in Table 5.3.1 below:

**Table 5.3.1 – Different Male & Female Vocal Levels (at any octave band centre frequency) \*Average Speech Levels - Pearson, Bennet, & Fidell (1977) Report.**

Vocal Effort	No. of Talkers	Sound Power Levels [dB] at Octave Band Centre Frequencies [Hz] *,**							
		125	250	500	1000	2000	4000	8000	dB(A)
<b>Females</b>									
Casual	1	37.0	55.0	56.0	47.0	46.0	41.0	44.0	<b>55.7</b>
Normal	1	37.0	58.0	61.0	53.0	49.0	51.0	45.0	<b>60.8</b>
Raised	1	36.0	64.0	68.0	63.0	58.0	56.0	50.0	<b>68.4</b>
Loud	1	31.0	66.0	70.0	72.0	68.0	64.0	56.0	<b>75.2</b>
Shouted	1	31.0	61.0	75.0	83.0	81.0	75.0	66.0	<b>86.2</b>
<b>Males</b>									
Casual	1	55.0	57.0	59.0	48.0	46.0	46.0	43.0	<b>58.1</b>
Normal	1	59.0	63.0	65.0	56.0	51.0	49.0	43.0	<b>64.0</b>
Raised	1	62.0	67.0	71.0	64.0	58.0	55.0	49.0	<b>70.3</b>
Loud	1	61.0	71.0	79.0	76.0	70.0	66.0	57.0	<b>80.0</b>
Shouted	1	53.0	77.0	85.0	89.0	84.0	79.0	70.0	<b>91.4</b>

The sound pressure level from music playing inside the Training Studio, measured at the centre of the Training Studio, is shown in Table 5.3.2:

**Table 5.3.2 – Music at centre of Training Studio – ANVS - (Octave band centre frequency)- SPL**

Frequency	63	125	250	500	1000	2000	4000	8000	dBW (A)
Amplified Music - SPL Centre of Gym	75	76	75	74	73	69	64	63	<b>77.00</b>

Internal noise from the gym is expected to peak [worst case scenario] when the gym is at capacity (maximum 20 patrons) with background music playing. Table 5.3.3 presents the maximum noise level anticipated from the operation of the gym at maximum capacity (max. 20 patrons) including staff, background music and weights being used.

**Table 5.3.3 - Noise Levels Inside Training Studio Operating at Maximum Capacity Including Background Music**

Description	Sound Pressure Levels (dB) at Octave Band Centre Frequencies (Hz) at centre of Training Studio- Leq								
	63	125	250	500	1k	2k	4k	8k	dB(A)
<b>Total Cumulative Noise from Operational Activities at Maximum Capacity at Centre Training Studio</b>	-	<b>54</b>	<b>69</b>	<b>79</b>	<b>78</b>	<b>77</b>	<b>71</b>	<b>70</b>	<b>83</b>

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### **5.3.1 SOUND LEVEL AT NEAREST RESIDENTIAL RECEIVERS (AIRBORNE)**

All operational activities for the proposed training studio will occur inside the premises. Sound loss will be experienced through the existing construction and distance mitigation between the training studio and residential units above.

The noise prediction computations presented in this section are based on the methods and Standards as per **AS ISO 9613- :1996** Acoustics - Attenuation of sound during propagation outdoors -- : General method of calculation & Lord -Templeton 1986 Inside/Outside transmission loss method of calculations.

Using the maximum noise levels anticipated from the training studio as per Table 5.3.3, the predicted noise level at the nearest residential receiver (E1.9 &E1.10 of No. 599 Pacific Hwy) is 22 dB(A) [ Leq 15 mins ] which is below the noise trigger level of 52 dB(A) ( day), 49 dB(A) ( evening) & 47 dB(A) (night).

Provided following recommendations in Section 6 are adhered to, the maximum noise emanating from the training Studio will comply with the Sleep disturbance/arousal presented in section 4.1.1 of this report.

### **5.3.2 SOUND & VIBRATION LEVEL AT NEAREST RESIDENTIAL RECEIVER (STRUCTURE BORNE NOISE & VIBRATION).**

There are no easy- to- use modelling procedures to calculate the structure borne noise and vibration resulting from dropping weights onto floors.

Noise and vibration testing were carried out on similar sites with similar 300 mm thick concrete slabs and residential units on top.

Dropping a 32 kg kettlebell weight onto the floor inside a similar proposed Training Centre with different floor covering resulted with the noise levels as per Table 5.3.2.1 below :

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**Table 5.3.2.1 – Maximum Noise Levels recorded inside unit above Similar Training Centre**

<b>Floor Covering</b>	<b>Max 32 Kgs dropped from above shoulder height (1.6m)</b>	<b>Max 32 Kgs dropped from waist height (1.1 m)</b>	<b>Max 32 Kgs dropped from knee height (0.45 m)</b>
83mm A1 Rubber system	42.5 dB(A)	37 dB(A)	In audible
83mm Regupol System	42.0 dB(A)	37 dB(A)	In audible
88mm Regupol System	41.0 dB(A)	36.5 dB(A)	In audible

Vibration from dropping weights from different heights onto the floor were also recorded using the vibration sentry e 16 g vibration meter data logger connected to a laptop.

The measured vibration levels recorded with all the above weight drop heights fully complied with the requirements of AS 2670.2-1990 Evaluation of human exposure to whole-body vibration - Continuous and shock-induced vibration in buildings (1 to 80 Hz).

## **6 NOISE CONTROL RECOMMENDATIONS**

### **6.1 MECHANICAL PLANT**

The existing air-conditioning units in the building are to be retained and no new mechanical ventilation is proposed to be installed at this stage. The existing mechanical plant will not produce any additional offensive noise for the nearest potential receiver as background noise levels are dominated by existing mechanical plant as well as traffic noise from Pacific Hwy, Albany St and surrounding commercial/industrial premises (including associated Mechanical Plant & Equipment).

If any new mechanical ventilation is installed, owner is to choose a quiet motor and to lag the duct and fan box with minimum 50mm thick insulation blanket.

### **6.2 VIBRATION IMPACT**

We recommend 83mm A1 Rubber Flooring (or similar) to be installed through the whole areas where drop weights are used.

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Signs are to be installed instructing patrons not to drop weights over 32kgs from a distance higher than **450 mm height**. Staff members are to ensure this rule is enforced during classes. The use of vibration dampers on machine weights adjacent to building columns is recommended.

The above, in conjunction with the installed acoustic rubber matting will absorb the high impact shock from weights being dropped on the gymnasium floor and will therefore not cause any adverse vibration impact to adjacent floors above.

### **6.3 NOISE VOLUME CONTROL**

No amplified music is permitted to be played at the Training Studio. Only background music/Tv to be allowed and this to be inaudible outdoors of the Training studio. This can be easily achieved and can be confirmed by standing at the boundary listening and adjusting until the background music/Tv played is inaudible.

### **6.4 WINDOWS OF PROPOSED TRAINING STUDIO**

All operable windows & sliding doors are to be closed during early morning and day hours (5:30 am – 8:00 a.m) so as to not allow any noise propagation.

### **6.5 MANAGEMENT OF PROPOSED CENTRE & SIGNS**

Patrons of the Training studio must be informed of the nearest residential noise receivers and the importance of minimising noise produced especially during the evening and night hours. Management is to ensure that patrons enter and leave the site in an orderly fashion and not congregate outside.

Signs are to be placed inside the training centre near any weights advising patrons to not heavily drop weights on the floor, rather place them gently when possible, to minimise any vibration impact. Signs are to be installed advising clients that no weights over 32 kgs are to be dropped above 450mm height.

### **6.6 NOISE MANAGEMENT PLAN**

A Noise Management Plan should be implemented and should include the following:

- Install a contact number at the front of the Training Studio so that complaints regarding the operation can be made.
- Implement a complaint handling procedure. If a noise complaint is received the complaint should be recorded on a Complaint Form. The Complaint Form should contain

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the following:

- Name and Address of the Complainant
- Time and Date the Complaint was received
- The nature of the complaint and the time/date the noise was heard
- The name of the employee that received the complaint
- Actions taken to investigate the complaint and the summary of the results of the investigation
- Indication of what was occurring at the time the noise was happening (if applicable)
- Required remedial action (if applicable)
- Validation of the remedial action
- Summary of feedback to the complaint

Also, a permanent register of complaints should be held on the premises, which shall be reviewed monthly by staff to ensure all complaints are being responded to. All complaints received shall be reported to management with initial action/investigation commencing within 7 days. The complaint should also be notified of the results and actions arising from the investigation.

## **7.0 CONCLUSION**

Measurements and computations presented in this report show that the noise & vibration emissions from the proposed Training Studio at Shop 7 No. 599 Pacific Hwy, St Leonards; will not exceed the noise criteria set out in Section 4 of this report. Additional noise controls recommendations are outlined in Section 6 to ensure compliance through the operation of the proposed Training Centre will comply with the relative sections of the EPA the requirements of North Sydney Council and will not create any offensive noise to the surrounding environment.

Should you require further explanations, please do not hesitate to contact us.

Yours sincerely,



M. Zaioor.  
M.S. Eng'g Sci. (UNSW).  
M.I.E.(Aust), CPEng.  
Australian Acoustical Society (Member).

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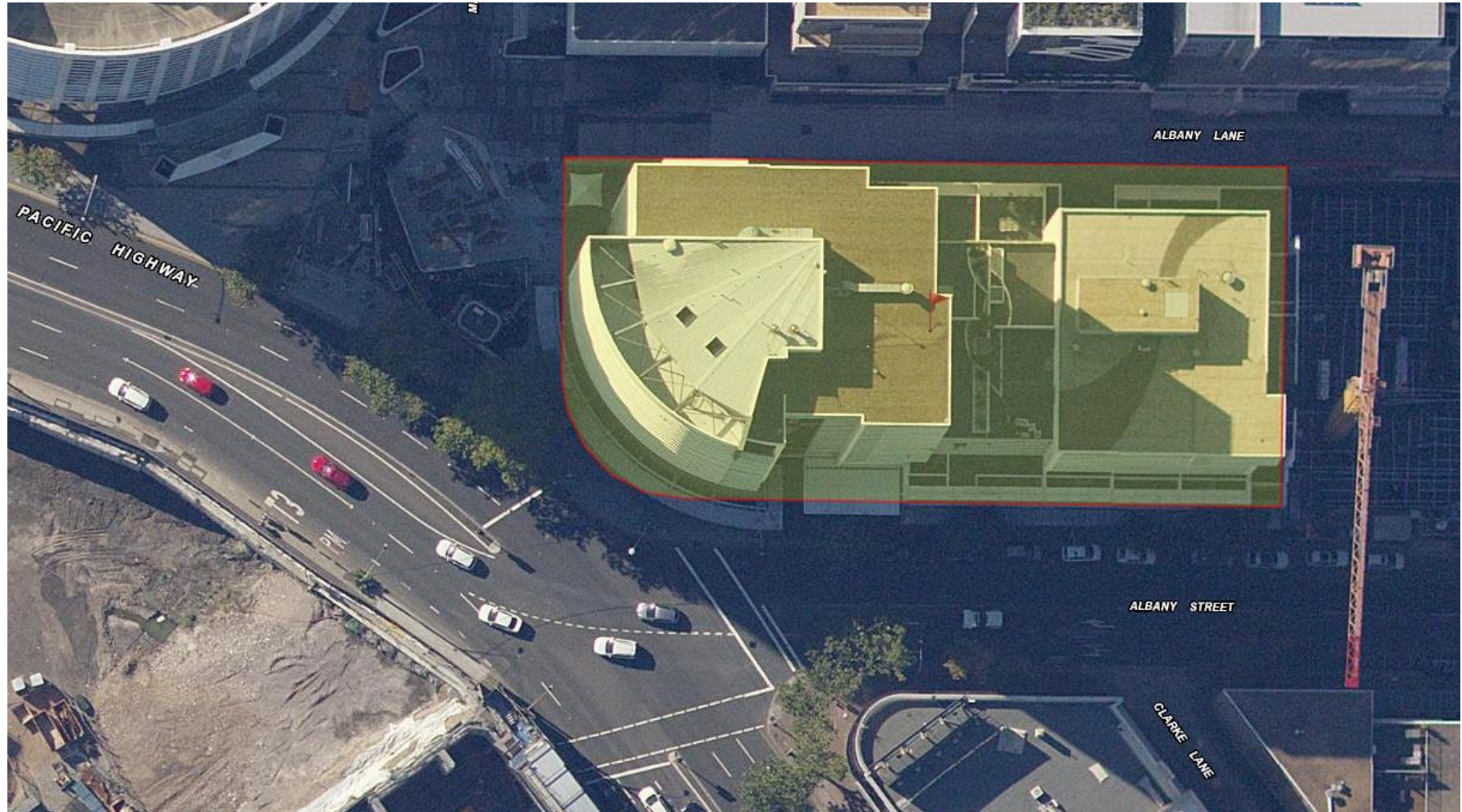


Figure 1 - Site Location

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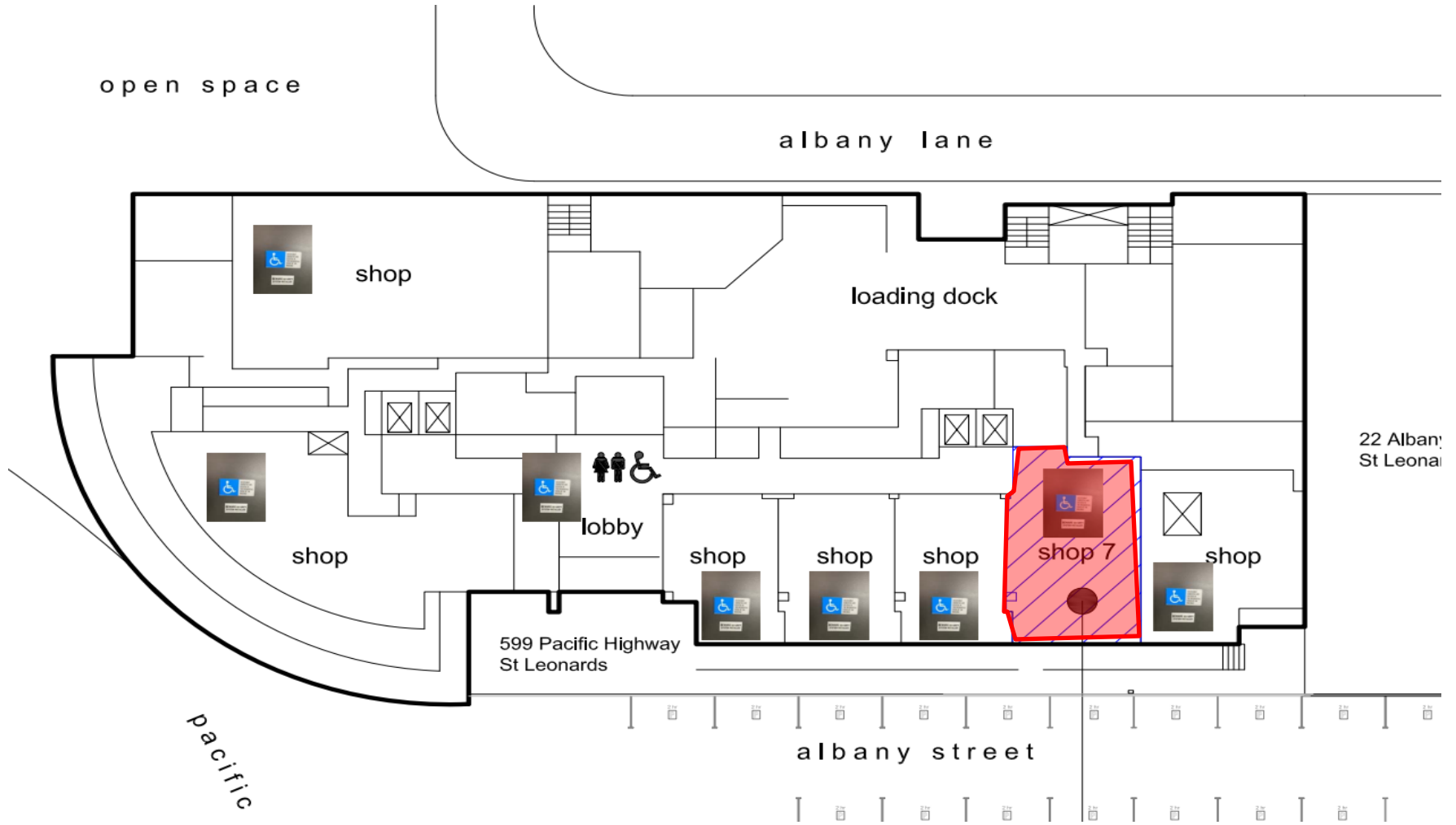


Figure 2 – Proposed Site Location



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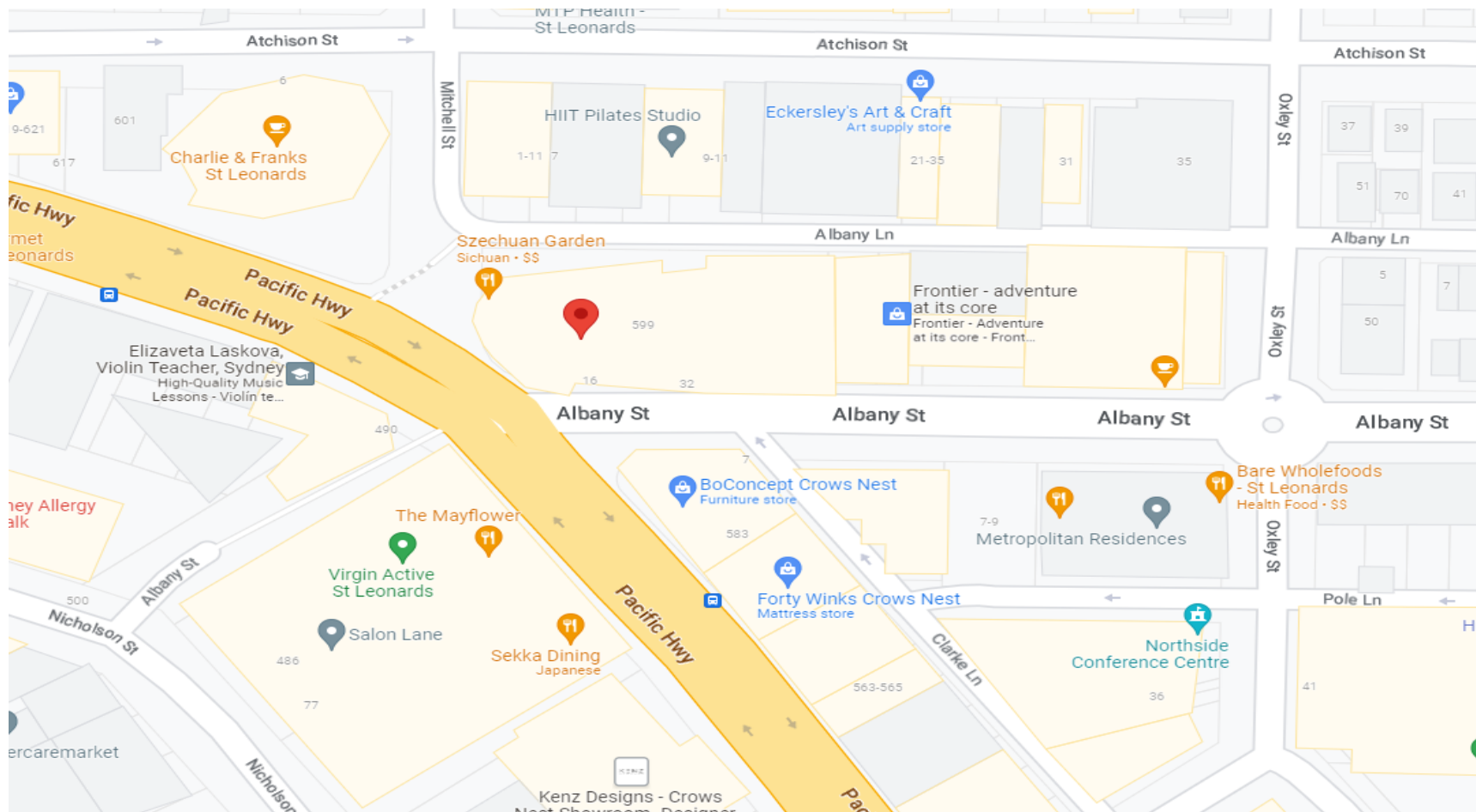


Figure 3 - Surrounding Environment

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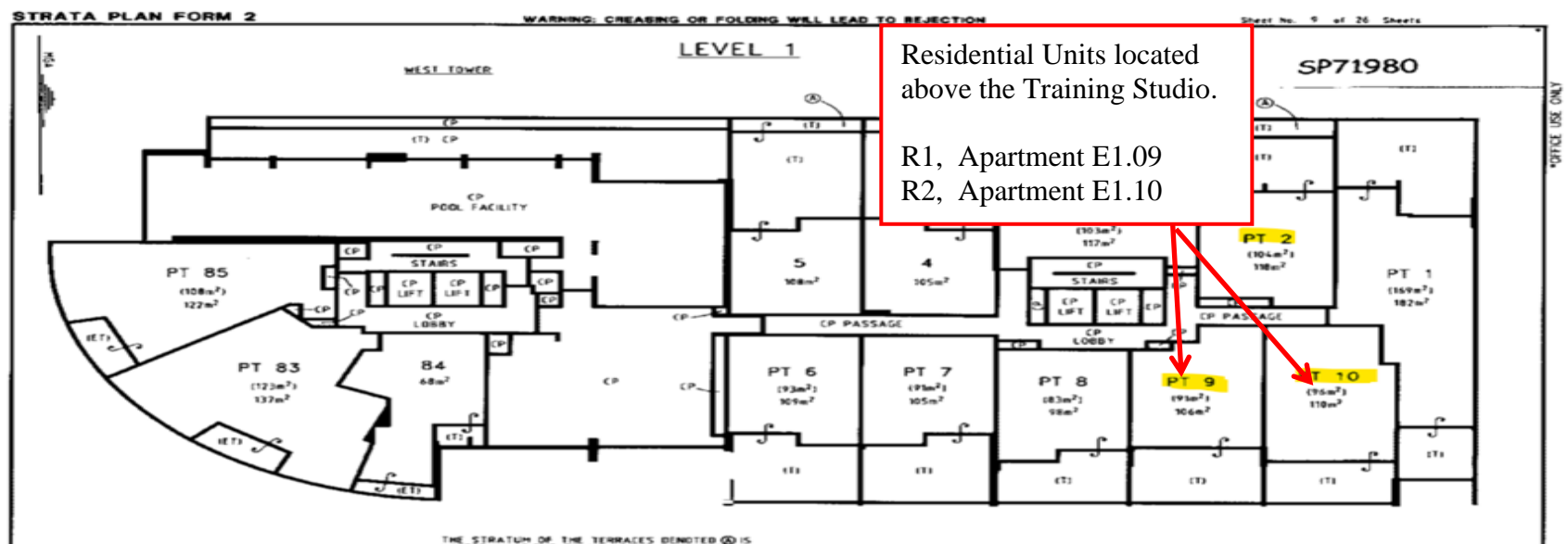


Figure 4 – Nearest Residential Receiver above Proposed Personal Training Studio

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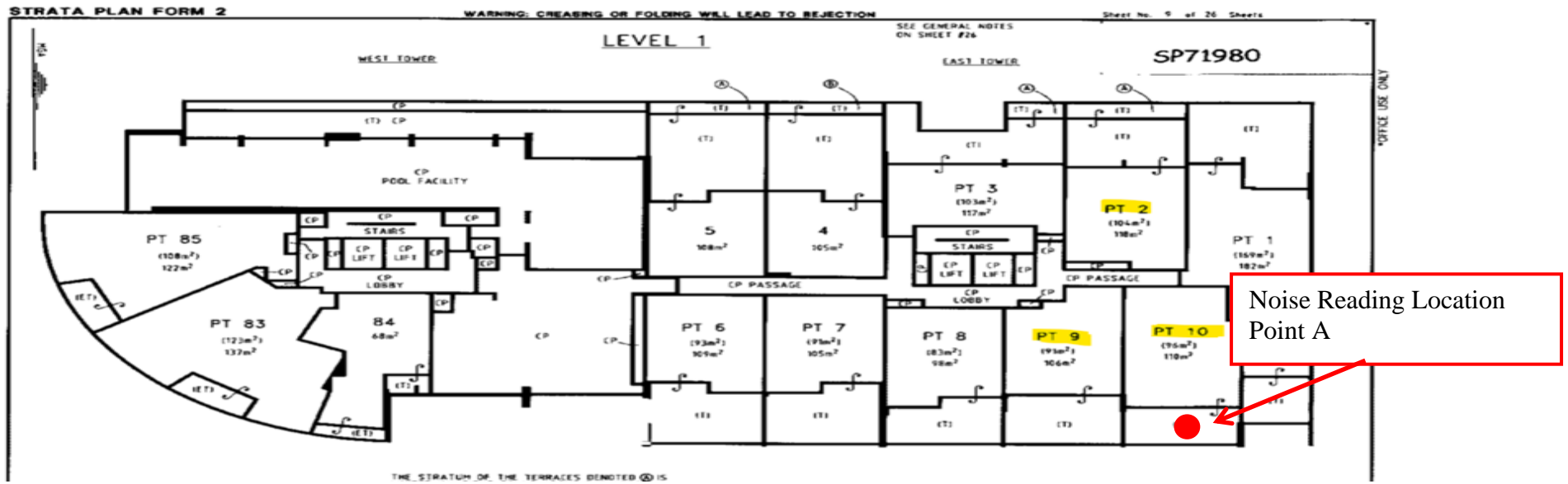


Figure 5 – Unattended Noise Reading Location (Point A)

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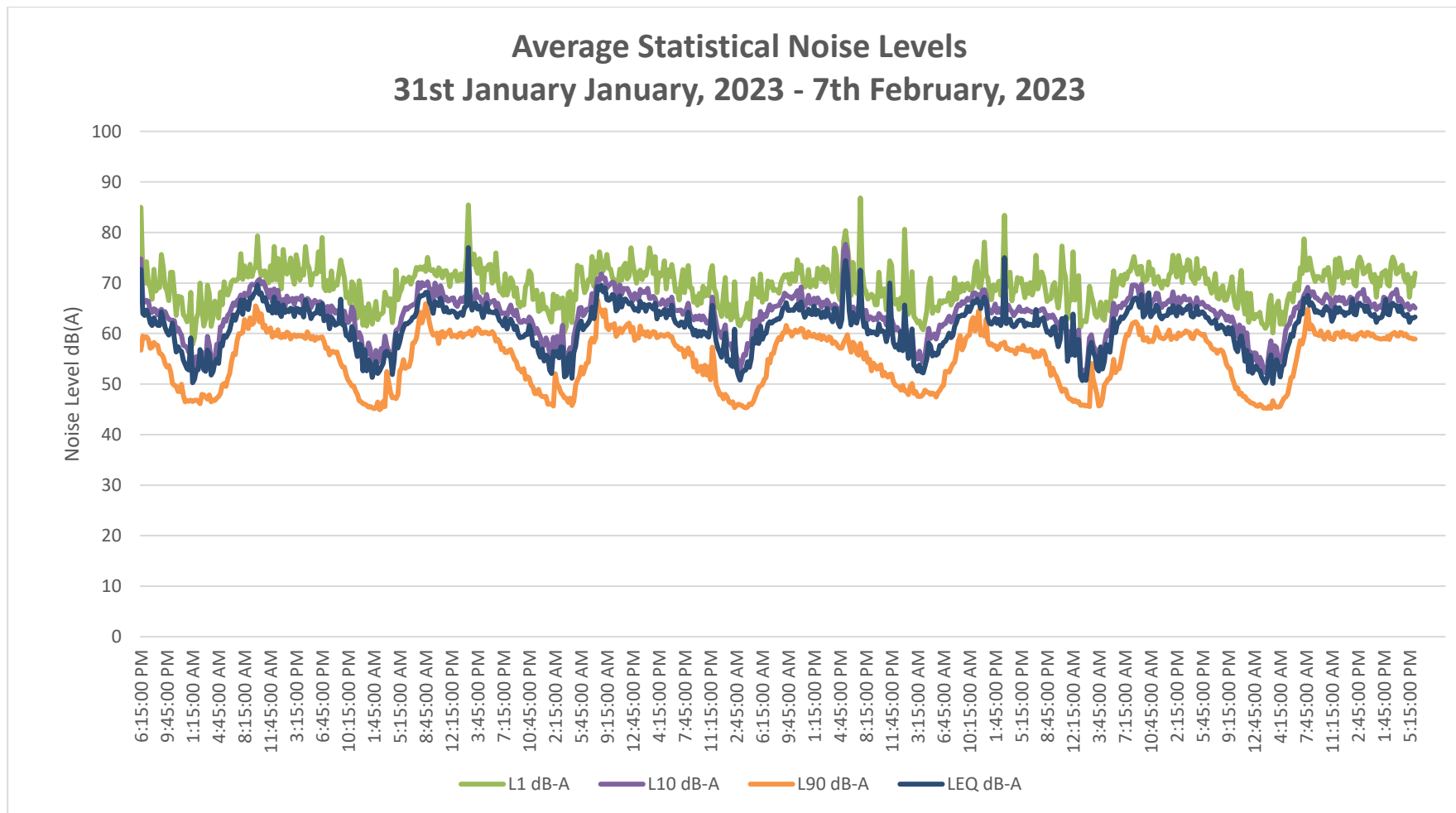


Figure 6 - Noise Survey

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**PLAN OF MANAGEMENT**  
including **WASTE MANAGEMENT**

**Vision Personal Training**

**Shop 7 599 Pacific Highway  
St Leonards NSW**

**July 2023**

**Version 3.0**

# Contents

---

## 1 Introduction

---

This Plan of Management (PoM) has been prepared by Vision PT Pty Ltd with inputs from various contractors to accompany a development application for a Vision Personal Training Studio at Shop 7 599 Pacific Highway St Leonards NSW.

Please also refer to our website to understand our business [www.visionpersonaltraining.com](http://www.visionpersonaltraining.com)

### 1.1 Purpose of this Plan

The purpose of this PoM is to describe the operational, security, and management details of the business and outline measures that will be taken to minimise crime, antisocial behaviours and impacts on surrounding properties.

Details in this plan include the type and number of staff that will be employed on the premises at any one time, security and access arrangements as well as noise and patron management.

### 1.2 Aims and Objectives of this Plan

The main aim and objective of the PoM is to provide a safe and friendly environment for patrons and staff by providing an environmentally friendly premises and preventing illegal or undesirable activity within and around the personal training studio.

### 1.3 Business Operation Overview (St Leonards)

A Vision Personal Training Studio is designed to operate differently to a traditional gym whereby it does not offer services such as group fitness classes, child minding, pool facilities, steam or sauna rooms or any other services typically associated with a traditional gym.

Instead Vision Personal Training St Leonards will be an appointment only personal training studio where the personal trainer focuses on the patron at all times of the training session within the tenancy.

### 1.4 Hours of Operation

The proposed use is for a personal training studio that will operate from:

Monday thru Friday 5.30AM – 8.00 PM

Saturday 5.30AM – 1.00 PM

Sunday CLOSED

## 1.5 Attendance and Staffing Arrangements

The premise will generally operate with 1 personal trainer per 2 patrons maximum with 1 admin support staff member during business hours. The maximum populations are as follows:

### Typical Weekday (slight variation may occur)

- 5:30am to 6am – 1:1 Personal Training sessions where there is a maximum of 3 personal trainers with maximum 3 clients within their own sessions (supervised by staff) = 9 people maximum
- 6am to 10:30am – 1:1 Personal Training sessions where there is a maximum of 6 personal trainers with maximum 8 clients within their own sessions (supervised by staff) = 20 people maximum
- 10:30am to 4:30pm – 1:1 Personal Training sessions where there is a maximum of 3 personal trainers with maximum 3 clients within their own sessions (supervised by staff) = 9 people maximum
- 4:30pm to 8pm – 1:1 Personal Training sessions where there is a maximum of 6 personal trainers with maximum 8 clients within their own sessions (supervised by staff) = 20 people maximum

### Typical Saturday (slight variation may occur)

- 6:30am to 7:30am – 1:1 Personal Training sessions where there is a maximum of 3 personal trainers with maximum 3 clients within their own sessions (supervised by staff) = 9 people maximum
- 7:30am to 12pm – 1:1 Personal Training sessions where there is a minimum of 1 personal trainer and 1 client to a maximum of 6 personal trainers with maximum 8 clients within their own sessions (supervised by staff) = 20 people maximum

No services such as group fitness classes, child minding, pool facilities, steam or sauna rooms are provided.

## 1.6 Noise Monitoring

Noise monitoring will be undertaken by the Personal Trainers on duty.

## 1.7 Lockers and Storage

The premise includes an open locker system.



## 2 Noise Management

---

### 2.1 Operational

The Personal Training Studio will have stereo and speaker system installed with no sub woofers or low frequency speakers.. The low level background music that is played inside the business will come from a single source with the remaining one or two televisions having no sound ability, only visual. The television provides the low level background music and is pre set at an acceptable volume no higher than that experienced in any household. Refer to Acoustic and Noise Solutions report 2023-024 dated 13 February 2023

### 2.2 Gym Equipment and Flooring

The majority of weights used will be “Pin Loaded” machines and not “Free Weights” which means that the weights are controlled by a system of Pulleys and Cables which allow control over the movement of such weights and therefore cannot be dropped.

The gym will be fitted out with rubber style flooring in the areas where the gym equipment and limited weights equipment are located. This flooring has a high load and impact resistance and is a preferred choice for gyms and any other noise sensitive businesses and areas. The flooring absorbs in excess of 95% of the sound made by the dropping of ‘heavy weights equipment’ and comfortably satisfies any related noise concerns. Refer to Acoustic and Noise Solutions Report 2023-024 dated 13 February 2023.

### 2.3 Patron Behaviour

The size of the premises is relatively small and is not anticipated to generate large volumes of patronage at any one time and the use is considered to be a low intensity use that will not attract or result in unruly or noisy patrons nor result in any antisocial behaviour.

Nonetheless, all members will be advised upon joining the gym to ensure that noise levels are kept to a minimum when entering and leaving the premises. Furthermore, the premises will have signs at each exit requesting patrons to leave quietly.

### 2.4 Signage

Prominent signage is provided around the free weights area stating:

- No weight is allowed to be dropped more than knee high from platform.
- No weight more than 50Kg is allowed to be dropped within the free weight zone.
- Minimise the noise at any time.

## **3 Emergency Procedures and Management**

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### **3.1 Rules of Conduct**

Upon joining the gym, each member will receive a New Member Information Pack that will describe the behavioural codes of conduct required to be maintained whilst using the premises. This literature will focus on member safety and the necessary measures to ensure that noise levels are kept to a minimum when entering and leaving the premises. Furthermore, the premises will have signs at each exit requesting patrons to leave quietly in order to discourage any loitering outside of the gym.

The information pack will also provide details to assist patrons with access to public transport in relation to the use of the facility

### **3.2 Drugs and Alcohol**

In the interest of health and safety Vision PT St Leonards will actively promote, encourage and support strategies to minimise harm from alcohol and other drugs.

The use of elicits or performance-enhancing drugs will not be allowed under any circumstances. Those found using or trading in illicit drugs will have their membership terminated immediately.

### **3.3 Cash Handling Procedures**

There will no cash handling on the premises as all the monetary transactions will take place in the form of an eftpos transaction.

### **3.4 Plan of Management and Emergency Procedure Review Process**

The POM will be reviewed on an annual basis with input from both management and staff regarding the validity of all the noted points. In addition, this forum will be utilised to discuss the addition of any relevant operational matters not previously documented on the POM.

## **4 Property and Waste Management**

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### **4.1 Property Damage**

In the event of property damage, the franchisee will immediately get into contact with the property manager and arrange to have the damage assessed and contained within a 24 hour period to ensure the safety of the public and the members of the gym. Upon assessment, immediate measures will take place by the property manager to engage the services of a suitable tradesperson to address the situation.

### **4.2 Graffiti Management**

In the event of graffiti, the franchisee will endeavour to address the situation within 24 hours by any means possible. If the franchisee is unable to personally fix the problem, then the services of a graffiti removal company will be engaged to ensure the graffiti is removed within 3-5 days.

### **4.3 Rubbish Removal**

Dumped rubbish outside the premises will be viewed as detriment to the franchisee and as such will be disposed of by that person.

### **4.4 Waste Management**

The amount of waste/garbage generated will be minimal and would likely require emptying by staff approximately two times a week. There will be no food based waste generated at the premises. Bins will be provided within the premises and adjacent the entry.

All wastes will be stored in approved containers placed inside the premises before being removed for disposal by Council or appropriate contractors via the building management process currently in use for the tenancies of 599 Pacific Highway St Leonards.

The existing building has a designated waste collection area that is sufficient for the disposal of waste generated by the proposed fit out

### **4.5 Cleaning**

Cleaning of the premises will be carried out on a daily basis and include cleaning of all cardio machines, weight machines, showers and toilets and general gym area.

## 5 Complaint Handling and Dispute Resolution

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This Complaint Handling and Dispute Resolution Policy aims to provide a structured approach to resolving complaints and disputes that is fair and equitable, and that will lead to solutions that are acceptable to all parties.

The purpose of this Policy is to outline a set of procedures to effectively and fairly respond to complaints and disputes in a professional and timely manner. This Policy provides a process for handling and resolution of complaints and disputes between Vision PT St Leonards and its members, employees and surrounding residents and businesses.

The objectives of this Policy are to establish a process to:

- Record, action and resolve complaints and disputes;
- Review and monitor performance against the procedures outlined in this Policy.

### 5.1 Dealing with Client Disputes and Owners Corp Complaints.

To maximise the chance of a successful resolution the franchisee of the club will:

- Listen to what the complainant has to say;
- Request documentary evidence if required to verify the facts;
- Negotiate face-to-face in a calm and professional manner;
- Provide accurate information on the options available to the complainant for resolution of the issue.

### 5.2 Communication

The contact details including a phone number of the manager/owner will be made available 24 hours, 7 days on the outside of the premises.

### 6.3 Procedures for Receiving Complaints

If a complaint is submitted, the franchisee:

- Must, if the complaint is verbal, either resolve it “on the spot”;
- Must, if the complaint is in writing, acknowledge in writing receipt of the complaint as soon as practicable and in any event within 14 days from receipt, and enclose a copy of this Policy for the complainant’s information;
- Must ensure that the complaint receives proper consideration resulting in a determination;
- Must act in good faith in dealing with and resolving the complaint;
- Must investigate the complaint including by:
  - Seeking all relevant information from the complainant; and
  - Obtaining all relevant information from employees.
- Must keep the complainants informed of progress towards resolving the complaint.
- Must communicate to the complainant in relation to the complaint as soon as practicable and in any event not more than 45 days after receipt by the club of the complaint: - The determination in relation to the complaint;
  - The remedies (if any) available to the complainant; and
  - Information regarding any further avenue for complaint.
- No action will be taken on anonymous complaints except in exceptional circumstances.

### 6.4 When a Complaint will be Treated as Resolved by the Studio

- Where the complainant has been notified in writing of a decision and no response has been received, the complaint will be treated as resolved by the studio.
- Where the complaint has been resolved to the complainants satisfaction “on the spot”; or
- Where the complainant has been notified of a decision about a complaint and no response has been received.

### 6.5 Recording the Complaint – Complaints and Disputes Register

A Complaints and Disputes Register will be established, maintained and kept up-to-date. The Register will be comprised of a copy of each Complaint Report.

The Register includes the following information about every complaint that is received:

- Date complaint is made;
- Nature of complaint / issue;
- Action taken to investigate the complaint;
- Date resolved; and
- How resolved.

**Original signed by David Hoy on 10/09/2014**  
**Date determined 10/09/2014**  
**Date operates 10/09/2014**  
**Date lapses 10/09/2019**

Urbanesque Planning Pty Ltd  
Suite 9 1-15 Tramore Place  
KILLARNEY HEIGHTS NSW 2087

DA257/14  
SMC1 (PDS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
ROADS ACT 1993, AND LOCAL GOVERNMENT ACT 1993 AS APPLICABLE**

**Notice to Applicant of Determination of a Development Application**

Pursuant to Section 81 of the Act, notice is given that Development Application No. **257/14** proposing **use as a personal training studio operating from 6am to 8pm Monday to Friday, and 6am to 7pm Saturday** on land described as **7/599 Pacific Highway, St Leonards** has been determined under delegated authority by the granting of consent subject to the conditions below. Where indicated, approval is also granted for works on public roads under the provisions of Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993.

**A. *Conditions that Identify Approved Plans***

**Noise and Vibration Impact (Compliance)**

- A1. Within 60 days of the granting of this consent, acoustic testing must be undertaken and a report from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, prepared to demonstrate that the use of the premises complies with the conditions of this consent relating to noise and vibration.

The testing must be carried out when the premises is operating at full capacity. A copy of the report must be submitted to Council within 14 days of its completion.

If the use is found not to comply with the noise conditions, the use must cease immediately until appropriate measures to remedy the breach are implemented to the satisfaction of Council.

(Reason: To ensure compliance with acceptable noise levels to maintain the amenity of adjoining land uses)

**7/599 PACIFIC HIGHWAY, ST LEONARDS  
DEVELOPMENT CONSENT NO. 257/14**

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**Development in Accordance with Plans/documentation**

- A2. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:-

Plan No.	Issue	Title	Drawn by	Received
59	A	Proposed Conversion of Medical Centre to a Personal Training Studio at Suite 7 No 599 Pacific Highway St Leonards	Peter Formosa	05/08/14

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**Plans on Site**

- A3. A copy of all stamped approved plans, specifications and documents must be kept on site at all times so as to be readily available for perusal by any officer of Council. All documents kept on site in accordance with this condition must be provided to any officer of the Council.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

**Separate DA for signage**

- A4. A separate development application is to be submitted for any signage, other than exempt and complying signage.

(Reason: To clarify the approval)

***I. On-Going / Operational Conditions***

**Hours of Operation**

- II. The hours of operation are restricted to:

Monday to Friday      6am to 8pm  
Saturday                      6am to 7pm

(Reason: to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

**7/599 PACIFIC HIGHWAY, ST LEONARDS  
DEVELOPMENT CONSENT NO. 257/14**

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**Single Occupancy**

- I2. Nothing in this consent authorises the use of the premises other than for a single occupancy.

(Reason: To ensure compliance with the terms of this consent)

**Noise and Vibration Impact**

- I3. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

**Commercial Waste and Recycling Storage**

- I4. Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

(Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed)

**Waste Collection**

- I5. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the amenity of surrounding properties)

**Delivery Hours**

- I6. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

**Noise Control (Fitness Centres)**

- I7. The use of the premises shall comply with the following: .

**Music and Vocal**

- (a) The LA10 noise level emitted from the use of the premises must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 6.00am and 7.00pm when assessed at the boundary of any affected residence.



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- (b) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 7.00pm and 6.00am on the following day when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from the use must not be audible within any habitable room or sleeping area in any affected residence between the hours of 7.00pm and 6.00am on the following day.
- (d) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises with windows closed.
- (e) The use of the premises must be controlled so that any emitted noise is at a level so as not to create an “*offensive noise*” as defined in the *Protection of the Environment Operations Act 1997*.

LA10 is the average maximum A-weighted Fast Response sound level emitted from the premises.

LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise).

#### Use of Gym Equipment

The LAavmax noise level emitted from the use of gym equipment must not exceed the background noise level (LA90) by more than 5dB when assessed inside any affected residence with the windows of the affected residence closed.

LAavmax is the average maximum A-weighted Fast Response sound level emitted from use of gym equipment on the premises.

LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise) with the windows of the affected residence closed and any air-conditioning in the residence turned off. If the LA90 is less than 20dB then it is taken to be 20dB.

#### General

- “affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.
- “boundary” includes any window or elevated window of an affected residence.

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Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To ensure the amenity of surrounding land uses)

**Shopfront to be kept clear**

I8. In order to maintain visibility to the shop interior, the upper portion of the shopfront, being that portion of clear glazing above the existing frosted glazing, must not be obscured by:

- (a) advertising posters, painted signs, decals or displays that are fixed internally or externally to the shopfront;
- (b) video screens or the like; and
- (c) blinds, curtains or the like.

(Reason: Streetscape amenity)

**Maximum client capacity**

I9. The capacity of the premises is to comply with the following at any one times:

- (a) Up to six (6) clients using the personal training studio;
- (b) Up to two (2) personal trainers; and
- (c) Up to one (1) client and one (1) massage therapist in the massage room.

(Reason: To clarify the approval)

**Massage room**

I10. The massage room is to be used only for the purpose of massage therapy in association with, and ancillary to, the use of the premises as a personal training studio. A separate development application is to be lodged for any use of the site for the purpose of any treatment(s) involving skin penetration (e.g., acupuncture).

(Reason: To clarify the approval)

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DATE OF DETERMINATION:DATE FROM WHICH CONSENT OPERATES:DATE CONSENT LAPSES:**ADVISINGS****Notes**

(a) Council is always prepared to discuss its decisions, and in this regard please do not hesitate to contact Susanna Cheng. However, if you wish to pursue your rights of appeal in the Land and Environment Court pursuant to Section 97 of the Act, you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing, and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.

(b) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a modification under Section 96 of the Environmental Planning & Assessment Act 1979.

Please bear this in mind before preparing documentation in support of a Construction Certificate application. Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 96 of the Environmental Planning & Assessment Act.

(c) Section 82A of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The review must be completed within six (6) months after the date of receipt of this Notice of Determination. If you intend to lodge a request for a review it is recommended that the request, together with payment of the appropriate fees, is lodged as early as possible in order to allow sufficient time for notification, assessment, reporting, etc, prior to the expiration of the 6 month review period. It is recommended that the applicant discuss any request for a review of the determination with Council Officers before lodging such a request.

(d) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:

**7/599 PACIFIC HIGHWAY, ST LEONARDS  
DEVELOPMENT CONSENT NO. 257/14**

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- (i) Relevant approvals must be obtained under the provisions of Section 138 of the Roads Act, 1993 for any works on public roads which are not the subject of this consent.
  - (ii) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - (iii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with 81A(2)(b1)(i) of the Act.
  - (iv) Council is to be notified at least two (2) days before the intention to commence building works, in accordance with Section 81A(2)(c) of the Act.
- (e) The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue necessary documentary evidence or certificate/s.

(f) **Sydney Water Requirements**

You are advised that any building works may also require prior approval from Sydney Water. Further details can be obtained from the Sydney Water website at [www.sydneywater.com.au](http://www.sydneywater.com.au).

(g) **Telecommunications**

Please consult a suitably qualified telecommunications company with a licence issued by the Australian Communications & Media Authority ([www.acma.gov.au](http://www.acma.gov.au) or 1800 226 667).

(h) **Dial before you dig**

Before you dig call “Dial before you dig” on 1100 (listen to the prompts) or further information on underground utility services for any excavation areas may be found on [www.1100.com.au](http://www.1100.com.au).

Council’s officers can provide these services, and further information, including a copy of the terms of agreement and fee schedule, can be obtained by telephoning Council’s Customer Service Centre on **9936 8100**.

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*Please note that all building work must be carried out fully in accordance with the development consent and conditions of approval and it is an offence to carry out unauthorised building work or building work that is not in accordance with Council's approval.*

*An offence under the Environmental Planning and Assessment Act 1979 and Regulations is subject to a penalty up to \$110,000 and \$11,000 respectively.*

*Council may also serve a notice and an order to require the demolition/removal of unauthorised building work or to require the building to be erected fully in accordance with the development consent.*

*On the spot penalties will be imposed for works which are carried out in breach of this consent, or without consent.*

*An amended development application is required to be submitted to and approved by Council, and a Construction Certificate is to be obtained from the Council or an Accredited Certifier, prior to commencement of any variations from the approved plans and conditions of approval.*

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DATE

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Signature on behalf of consent authority  
David Hoy  
TEAM LEADER (ASSESSMENTS)