

PLANNING
PROPOSAL

PP2022/0003

Recreation Facilities (Indoor) in R1 General Residential Zone - Additional Permitted Use

Canada Bay Local Environmental Plan 2013

January 2023

Amended post Gateway Determination

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1. Introduction

This planning proposal seeks to make amendments to the *Canada Bay Local Environmental Plan (CBLEP) 2013*, in relation to Additional Permitted Uses, as summarised below:

- To include a new additional permitted use to permit Recreation Facilities (Indoor), with consent, on certain land within the R1 General Residential zone.
- To introduce an Additional Permitted Uses map
- To update Schedule 1 to include references to the map.
- To amend the heading to Clause 7.17 and relocate an amended version of Clause 7.17 (1) to Schedule 1.
- To delete Clause 7.18 and relocate an amended version of Clause 7.18 to Schedule 1.

Background

In recent years, several private gyms in Mortlake obtained Complying Development Certificates through Private Certifiers. This use is prohibited as the Mortlake area is zoned R1 General Residential pursuant to the *Canada Bay Local Environmental Plan 2013*. Council has initiated enforcement action and has issued Notice of Intentions to issue Orders to relevant businesses.

Council meeting – 16 August 2022

A Mayoral Minute was tabled at the Council meeting of 16 August 2022 to investigate the suitability of gyms within the R1 General Residential zone. The Mayoral Minute recognised that gyms and local fitness facilities are important local infrastructure that bring the community together for exercise, health, and wellbeing.

Council resolved to investigate the potential for Recreation Facilities (Indoor) to be included as permitted with consent in the R1 General Residential zone. This resolution did not foreshadow the outcomes of a Planning Proposal but rather it sets in train a community consultation process with local residents, businesses, landowners, and relevant stakeholders.

Council meeting – 18 October 2022

Council resolved to amend the Planning Proposal to permit the additional permitted use in certain locations within the R1 General Residential zone within Mortlake:

Recreational Facilities (Indoor) only be permitted on land within the R1 General Residential Zone that has a frontage to Tennyson Road, between Palace Lane and Herbert Street, and land that has a frontage to Edwin Street, between Tennyson Road to Hilly Street.

This Planning Proposal has been prepared to amend Schedule 1 of the *Canada Bay Local Environmental Plan 2013* (LEP) to permit Recreation Facilities (Indoor) with consent in certain locations within the R1 General Residential zone, as well as to update Schedule 1 to include references to a new Additional Permitted Use map series.

To ensure that all additional permitted uses are identified and referenced consistently, it is also proposed that the heading to Clause 7.17 be amended, Clause 7.18 be deleted, and an amended version of Clause 7.17 (1) and Clause 7.18 are relocated to Schedule 1.

Recreation facility (indoor)

A gym is a type of recreation facility (indoor) which is defined in the CBLEP as follows:

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

Residential zone analysis

At present, Recreation Facilities (Indoor) are not permissible in the R1 General Residential zone pursuant to the CBLEP. This land use is however, permitted with consent in business zones (B1 Neighbourhood Centre, B3 Commercial Centre, B4 Mixed Use, B6 Enterprise Corridor, B7 Business Park, IN1 General Industrial), as well as recreation zones (RE1 Public Recreation and RE2 Private Recreation).

The R1 General Residential zone is different to other residential zones within CBLEP. The only area within the City of Canada Bay with the R1 zone is in the suburb of Mortlake, which has a history of industrial uses. As can be seen in the table below, there are a range of commercial/industrial types of uses that are permitted with consent within the R1 zone that are not permitted in an R2, R3, or R4 zone. These uses include boat building and repair facilities, boat launching ramps, commercial premises, hostels, information and education facilities, light industries, marinas, mooring pens, serviced apartments, vehicle repair stations.

Land use	R1	R2	R3	R4
Attached dwellings	Y		Y	
Bed and breakfast accommodation	Y	Y	Y	
Boarding houses	Y		Y	Y
Boat building and repair facilities	Y			
Boat launching ramps	Y			
Boat sheds	Y	Y	Y	
Building identification signs	Y	Y	Y	Y
Business identification signs	Y	Y	Y	Y
Centre-based child care facilities	Y	Y	Y	Y
Commercial premises	Y			
Community facilities	Y	Y	Y	Y
Dual occupancies		Y		
Dwelling houses	Y	Y		
Environmental facilities	Y	Y	Y	Y
Exhibition homes	Y		Y	Y
Exhibition villages				Y
Group homes	Y	Y	Y	

Health consulting rooms		Y		
Hostels	Y			
Information and education facilities	Y			
Jetties	Y	Y	Y	
Light industries	Y			
Local distribution premises				Y
Marinas	Y			
Mooring pens	Y			
Multi dwelling housing	Y		Y	Y
Neighbourhood shops	Y		Y	Y
Oyster aquaculture	Y	Y	Y	Y
Places of public worship	Y	Y	Y	Y
Pond-based aquaculture	Y	Y		
Public administration buildings	Y		Y	Y
Recreation areas	Y	Y	Y	
Residential accommodation	Y		Y	
Residential flat buildings	Y			Y
Respite day care centres	Y	Y	Y	Y
Roads	Y	Y	Y	Y
Schools	Y	Y	Y	
Semi-detached dwellings	Y	Y		
Seniors housing	Y		Y	Y
Serviced apartments	Y			
Shop top housing	Y			Y
Tank-based aquaculture	Y	Y	Y	
Vehicle repair stations	Y			
Water recycling facilities	Y	Y	Y	Y
Water supply systems				Y

Summary

The R1 General Residential zone in Mortlake currently permits a range of land uses. These include residential flat buildings, commercial premises, light industries, vehicle repair stations, amongst others.

Recreation Facilities (Indoor) will support the increasing resident population in Mortlake and Breakfast Point and would complement the existing uses permitted in the R1 Zone.

The additional permitted use for Recreation Facilities (Indoor) will apply to land in Mortlake with a frontage to Tennyson Road, between Palace Lane and Herbert Street, and land that has a frontage to Edwin Street, between Tennyson Road to Hilly Street.

2. PART 1 – Objectives and Intended Outcomes

The planning proposal seeks to amend the *Canada Bay Local Environmental Plan 2013* to permit a Recreation Facility (Indoor) land use with consent on certain land in the R1 General Residential zone.

Objectives and the intended outcomes of the planning proposal are as follows:

Objectives

- To provide land uses that meet the recreation needs of the community.

Intended Outcomes

To permit Recreation Facilities (Indoor) with consent in certain locations within the R1 General Residential zone

3. PART 2 – Explanation of Provisions

To achieve the proposed objectives and intended outcomes, the Planning Proposal seeks to:

- Amend the heading to Clause 7.17 to remove the reference to ‘Additional permitted uses’ as shown below:

7.17 Building height and floor space in Area 3

- Delete Clause 7.17 (1).

(1) Development for the following purposes is permitted with development consent in Area 3—

- (a) health services facilities,
(b) office premises.

- Amend Schedule 1 to include an amended version of Clause 7.17 (1) as Item 25, as shown below:

25 Use of certain land at 2 and 2C Cavell Avenue and 57-61 Blaxland Road, Rhodes

(1) This clause applies to land at 2 and 2C Cavell Avenue and 57-61 Blaxland Road, Rhodes, being Lots 45, 46, 47, DP 5923 and Lots 23, 24, 25, DP 5923, and identified as “APU 25”.

(2) Development for the following purposes is permitted with development consent—

- (a) health services facilities,
(b) office premises.

- Delete Clause 7.18

Development for the purposes of residential flat buildings is permitted with development consent in the Leeds Street Character Area.

- Amend Schedule 1 to include an amended version of Clause 7.18 as Item 26, as shown below:

26 Use of certain land at Leeds Street, Rhodes

(1) This clause applies to land at Leeds Street, Rhodes, and identified as “APU 26” on the Additional Permitted Uses Map.

(2) Development for the purposes of residential flat buildings is permitted with development consent.

- Amend Schedule 1 with a new Item 26 for Recreation Facilities (Indoor), as shown below:

27 Use of certain land in Zone R1 on Tennyson Road and Edwin Street, Mortlake

- (1) This clause applies to land in Zone R1 General Residential and identified as “APU 27” on the Additional Permitted Uses Map.
- (2) Development for the purposes of Recreation Facilities (Indoor) is permitted with development consent.

- Introduce an ‘Additional Permitted Uses’ map.
- Update all items in Schedule 1 to refer to the ‘Additional Permitted Uses’ map.

The properties that will benefit from the additional permitted use described as Item 27 above are outlined in red in the image below:



4. PART 3 – Justification

Section A - Need for a planning proposal

1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is the result of a resolution from Council to assess the appropriateness of the proposed land use and to obtain community feedback.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the only means to achieve the intended outcome as amendments to CBLEP2013 are required to enable the proposed use to be permitted.

Section B - Relationship to strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan (including any exhibited draft plans or strategies)?

The planning proposal has strategic merit and is generally consistent with the objectives of Greater Sydney Region Plan – A Metropolis of Three Cities:

Objective Number	Objective	Statement of Consistency
1	Infrastructure supports the three cities	Consistent
2	Infrastructure aligns with forecast growth – growth infrastructure compact	Consistent
3	Infrastructure adapts to meet future needs	Consistent
4	Infrastructure use is optimised	Consistent
5	Benefits of growth realised by collaboration of governments, community and business	Consistent
6	Services and infrastructure meet communities' changing needs	Consistent. The amendment will permit gyms (Recreation facility (indoor)) which service community needs within the R1 zone.
7	Communities are healthy, resilient and socially connected	Consistent. This use will permit gyms and assist the local community to be healthy, resilient, and socially connected.

8	Greater Sydney's communities are culturally rich with diverse neighbourhoods	Consistent
9	Greater Sydney celebrates the arts and supports creative industries and innovation	Consistent
10	Greater housing supply	Not applicable
11	Housing is more diverse and affordable	Consistent
12	Great places that bring people together	Consistent
13	Environmental heritage is identified, conserved and enhanced	Consistent
14	A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities	Consistent
15	The Eastern, GPOP and Western Economic Corridors are better connected and more competitive	Consistent
16	Freight and logistics network is competitive and efficient	Not applicable
17	Regional connectivity is enhanced	Not applicable
18	Harbour CBD is stronger and more competitive	Not applicable
19	Greater Parramatta is stronger and better connected	Not applicable
20	Western Sydney Airport and Badgerys Creek Aerotropolis are economic catalysts for Western Parkland City	Not applicable
21	Internationally competitive health, education, research and innovation precincts	Not applicable
22	Investment and business activity in centres	Consistent. Recreation facility businesses will be permitted to operate (with consent) within the Mortlake/Breakfast Point local centre.
23	Industrial and urban services land is planned, retained and managed	Consistent
24	Economic sectors are targeted for success	Consistent
25	The coast and waterways are protected and healthier	Not applicable
26	A cool and green parkland city in the South Creek corridor	Not applicable

27	Biodiversity is protected, urban bushland and remnant vegetation is enhanced	Not applicable
28	Scenic and cultural landscapes are protected	Not applicable
29	Environmental, social and economic values in rural areas are protected and enhanced	Not applicable
30	Urban tree canopy cover is increased	Consistent. The addition of an additional permitted use will not reduce canopy cover. Tree canopy may be considered for future development applications.
31	Public open space is accessible, protected and enhanced	Not applicable
32	The Green Grid links parks, open spaces, bushland and walking and cycling paths	Not applicable
33	A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change	Not applicable
34	Energy and water flows are captured, used and re-used	Not applicable
35	More waste is re-used and recycled to support the development of a circular economy	Consistent. Conditions will be included on any future development consent requiring reductions to waste generated and recycling of waste.
36	People and places adapt to climate change and future shocks and stresses	Not applicable
37	Exposure to natural and urban hazards is reduced	Not applicable
38	Heatwaves and extreme heat are managed	Not applicable
39	A collaborative approach to city planning	Consistent
40	Plans refined by monitoring and reporting	Not applicable

The Planning Proposal is also consistent with the Our Greater Sydney 2056 - Eastern City District Plan:

Planning Priority Number	Planning Priority	Statement of Consistency
E1	Planning for a city supported by infrastructure	Consistent. Enables business approvals to support the community.
E2	Working through collaboration	Consistent

E3	Providing services and social infrastructure to meet people's changing needs	Consistent. Enables business approvals to support the community.
E4	Fostering healthy, creative, culturally rich and socially connected communities	Consistent. The additional use will permit recreation activities, including gyms, which improve health and social interactions.
E5	Providing housing supply, choice and affordability with access to jobs, services and public transport	Consistent
E6	Creating and renewing great places and local centres, and respecting the District's heritage	Consistent. Enables the provision of services that are desired by the community.
E7	Growing a stronger and more competitive Harbour CBD	Not applicable
E8	Growing and investing in health and education precincts and the innovation corridor	Consistent. Facilitates the provision of recreational services to assist in maintaining the health of the community.
E9	Growing international trade gateways	Not applicable
E10	Delivering integrated land use and transport planning and a 30-minute city	Consistent. Provision of additional services to an area of the LGA with increased population densities to enable the needs of the local community to be serviced without the need for extended travel.
E11	Growing investment, business opportunities and jobs in strategic centres	Consistent. The planning proposal will enable new businesses to operate within the Mortlake/Breakfast Point locality.
E12	Retaining and managing industrial and urban services land	Consistent.
E13	Supporting growth of targeted industry sectors.	Consistent. Facilitates the approval of uses such as gyms.
E14	Protecting and improving the health and enjoyment of Sydney Harbour and the District's waterways	Not applicable
E15	Protecting and enhancing bushland and biodiversity	Not applicable
E16	Protecting and enhancing scenic and cultural landscapes	Not applicable
E17	Increasing urban tree canopy cover and delivering Green Grid connections	Consistent
E18	Delivering high quality open space	Not applicable

E19	Reducing carbon emissions and managing energy, water and waste efficiently	Consistent
E20	Adapting to the impacts of urban and natural hazards and climate change	Consistent
E21	Preparing local strategic planning statements informed by local strategic planning	Consistent
E22	Monitoring and reporting on the delivery of the Plan	Consistent

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

The planning proposal is consistent with the City of Canada Bay Local Strategic Planning Statement.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other state or regional studies or strategies that are directly relevant to this planning proposal.

6. Is the planning proposal consistent with the applicable state environmental planning policies?

The Planning Proposal is consistent with current state environmental planning policies:

SEPP Title	Consistency of Planning Proposal
Biodiversity and Conservation 2021	Not applicable
Building Sustainability Index: BASIX 2004	Not applicable
Exempt and Complying Development Codes 2008	Not applicable
Housing 2021	Not applicable
Industry and Employment 2021	Not applicable
65 – Design Quality of Residential Flat Development	Not applicable
Planning Systems 2021	Not applicable
Precincts – Central River City 2021	Not applicable
Precincts – Eastern Harbour City 2021	Not applicable
Precincts – Regional 2021	Not applicable
Precincts – Western Parkland City 2021	Not applicable

Primary Production 2021	Not applicable
Resilience and Hazards 2021	Consistent
Resources and Energy 2021	Not applicable
Sustainable Buildings 2022	Not applicable
Transport and Infrastructure 2021	Not applicable

7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

The Planning Proposal is consistent with relevant Ministerial Directions:

Direction Number	Direction	Statement of Consistency
1.1	Implementation of Regional Plans	Consistent
1.2	Development of Aboriginal Land Council land	Not applicable
1.3	Approval and Referral Requirements	Consistent
1.4	Site Specific Provisions	Consistent
1.5	Parramatta Road Corridor Urban Transformation Strategy	Not applicable
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable
1.10	Implementation of the Western Sydney Aerotropolis Plan	Not applicable
1.11	Implementation of Bayside West Precincts 2036 Plan	Not applicable
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable
1.14	Implementation of Greater Macarthur 2040	Not applicable

1.15	Implementation of the Pyrmont Peninsula Place Strategy	Not applicable
1.16	North West Rail Link Corridor Strategy	Not applicable
1.17	Implementation of the Bays West Place Strategy	Not applicable
3.1	Conservation Zones	Consistent
3.2	Heritage Conservation	Consistent
3.3	Sydney Drinking Water Catchments	Not applicable
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable
3.5	Recreation Vehicle Areas	Not applicable
3.6	Strategic Conservation Planning	Consistent
4.1	Flooding	Consistent
4.2	Coastal Management	Consistent
4.3	Planning for Bushfire Protection	Not applicable
4.4	Remediation of Contaminated Land	Consistent
4.5	Acid Sulfate Soils	Consistent
4.6	Mine Subsidence and Unstable Land	Not applicable
5.1	Integrating Land Use and Transport	Consistent. The additional use will improve access to recreation facilities for the local community.
5.2	Reserving Land for Public Purposes	Not applicable
5.3	Development Near Regulated Airports and Defence Airfields	Not applicable
5.4	Shooting Ranges	Not applicable
6.1	Residential Zones	Consistent. Additional services can be provided in accordance with any relevant approvals which also seek to minimise the impact of such approvals on the surrounding land uses.
6.2	Caravan Parks and Manufactured Home Estates	Not applicable
7.1	Business and Industrial Zones	Consistent. Additional business and employment opportunities will be enabled to support the local centre and local community.

7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
8.1	Mining, Petroleum Production and Extractive Industries	Not applicable
9.1	Rural Zones	Not applicable
9.2	Rural Lands	Not applicable
9.3	Oyster Aquaculture	Not applicable
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable

Section C: Environmental, social and economic impact.

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

It is considered unlikely that the Planning Proposal will adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

9. Are there any other likely environmental effects of the Planning Proposal and how are they proposed to be managed?

The additional item under Schedule 1 will not result in any environmental impacts, noting that changes to land use will require development consent, at which time the impacts of the use will be assessed and appropriately managed for the applicable site.

10. Has the planning proposal adequately addressed any social and economic effects?

The proposed changes are unlikely to result in any adverse social or economic effects.

Section D: Infrastructure (Local, State and Commonwealth)

11. Is there adequate public infrastructure for the planning proposal?

This proposal is unlikely to have any significant impacts on the demand for, or provision of infrastructure.

Section E: State and Commonwealth interests

12. What are the views of State and Federal public authorities and government agencies consulted in order to inform the Gateway determination?

No consultation has been carried out at this stage with any State and/ or Commonwealth Public Authorities or service providers. Consultation will be undertaken in accordance with the requirements of the Gateway Determination.

4. PART 4 – Mapping

The planning proposal requires a new map set which is provided in Appendix 2.

5. PART 5 – Community Consultation

Community consultation will be undertaken in accordance with the requirements of the Gateway determination.

6. PART 6 – Project Timeline

Stage	Timeframe and/or Date
Consideration by Council	18 October 2022
Gateway determination	23 December 2022
Pre-exhibition	January 2023
Commencement and completion dates of public exhibition period	1 February – 1 March 2023 (Note: Must be commenced before 23 February 2023)
Consideration of submissions	March 2023 (TBC)
Council determination	April 2023 (TBC)
Date draft LEP requested from PCO	May 2023 (TBC)
Date draft LEP received from PCO	May 2023 (TBC)
Date PCO Opinion requested	June (TBC)
Date PCO Opinion received	June (TBC)
Date GIS data or maps provided/requested	May 2023 (TBC)
Date ePlanning confirmed mapping is suitable and sent to PCO	May 2023 (TBC)
Date LEP finalised	July 2023 (TBC)
Date sent to DPIE requesting notification	August 2023 (TBC)
Notification of LEP amendment	September 2023 (Note: Must be completed before 23 September 2023)

7. APPENDIX 1 – Council meeting report, 18 October 2022

See over page.

ITEM 9.3	PLANNING PROPOSAL (PP2022/0003) - RECREATION FACILITIES (INDOOR) IN R1 GENERAL RESIDENTIAL ZONE
Reporting Manager	Manager Strategic Planning
Attachments:	1. Planning Proposal (PP2022-0003) - Recreation Facilities (Indoor) in R1 Zone (Provided in Attachment Booklet)

RECOMMENDATION OF DIRECTOR COMMUNITY AND ENVIRONMENTAL PLANNING

That:

1. The Planning Proposal – Recreation Facilities (Indoor) in the R1 General Residential Zone at Attachment 1, be submitted to the Department of Planning and Environment for a Gateway Determination.
 2. Delegation be requested from the Department of Planning and Environment to manage the plan making process.
 3. Authority be delegated to the General Manager to make any minor modifications to the Planning Proposal.
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PURPOSE

This report puts forth a Planning Proposal to amend the *Canada Bay Local Environmental Plan 2013* to permit Recreation Facilities (Indoor) with consent within the R1 General Residential zone, in response to a Council resolution.

EXECUTIVE SUMMARY

This report outlines a proposed amendment to *Canada Bay Local Environmental Plan 2013* (LEP) to permit a Recreation Facilities (Indoor), with consent, in the R1 General Residential zone. It responds to the resolution of Council [207/22, August 2022]:

That Council prepare a planning proposal to amend the Canada Bay Local Environmental Plan 2013 to permit Recreation Facilities Indoor with consent within the R1 General Residential zone.

The proposal will complement other uses within the R1 zone and may be appropriate, subject to the outcome of the public exhibition process. It should be noted that once the use is permitted with consent, Complying Development Certificates may be issued by private certifiers.

It is recommended that the Planning Proposal be submitted to the Department of Planning and Environment for a Gateway Determination. Should a Gateway Determination be received, the draft planning documents will be placed on public exhibition for community feedback. Following the exhibition period, a further report will be provided to Council on the outcome of the exhibition.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 1: Connected Community

Goal CC 4: Promote a community where residents feel safe and enjoy good health

BACKGROUND/DISCUSSION

In recent years, several private gyms in Mortlake obtained Complying Development Certificates through Private Certifiers. As this use is currently prohibited in the R1 General Residential zone within the Mortlake area under the *Canada Bay Local Environmental Plan 2013*, a number of these gyms are unable to expand their hours of operation (via a development application).

Council resolved at its meeting of 16 August 2022 to investigate the suitability of gyms within the R1 General Residential zone. A Mayoral Minute was tabled at the Council meeting which recognised that gyms and local fitness facilities are important local infrastructure which bring the community together for exercise, health, and wellbeing. Council subsequently resolved to investigate the potential of the subject use to be included as permitted with consent, in the R1 General Residential zone. This resolution does not foreshadow the outcomes of a Planning Proposal, but rather it sets in train a community consultation process with local residents, businesses, landowners and relevant stakeholders.

A Planning Proposal has been prepared to amend the *Canada Bay Local Environmental Plan 2013* (LEP) to permit Recreation Facilities (Indoor) with consent within the R1 General Residential zone. A copy of this Planning Proposal is at **Attachment 1**.

The R1 General Residential zone in Mortlake currently permits a range of land uses. These include residential flat buildings, commercial premises, light industries, vehicle repair stations, amongst others. Recreation Facilities (Indoor) will support the increasing resident population in Mortlake and Breakfast Point and would complement the existing uses permitted in the R1 Zone.

TIMING AND CONSULTATION CONSIDERATIONS

Should this Planning Proposal receive Gateway Approval, subsequent to Council endorsement of submission to the Department of Planning and Environment, the Planning Proposal will be placed on public exhibition for a period of 28 days.

Submissions received during the public exhibition period will be reviewed and a summary of submissions with recommendations will be reported back to Council for consideration.

RISK CONSIDERATIONS

Should Recreation Facilities (Indoor) be permitted with consent, Private Certifiers will be able to issue Complying Development Certificates for this use anywhere within the R1 General Residential zone in accordance with *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Approval via a private certifier process avoids the need to obtain development consent through a development application. Complying Development Certificates are not subject to public notification and the community cannot make submissions on the merit or impact of a proposed use. Similarly, Complying Development Certificates are subject to standard conditions of consent and there is no ability to impose conditions to manage impacts specific to an individual site or location.

In cases where a Recreation Facility (Indoor) proposes to change the standard conditions of consent, for example, seeking hours of operation beyond the standard conditions (i.e., outside 7am – 7pm), a development application will be required. Where a development application is required, neighbours will be notified of the proposal, and Council officers will assess the proposal, particularly traffic, parking and acoustic impacts.

Council should therefore be aware that, once Recreation Facilities (Indoor) are permitted within the R1 General Residential zone, some operators may be able to set up gyms via the complying development pathway, without the detailed assessment and consultation that the development assessment process requires. However, the desire of many gyms to operate before 7am and/or after 7pm, will assist in mitigating this risk, and potential impacts on the community.

FINANCIAL CONSIDERATIONS

There are no financial considerations associated with this report.

LEGISLATIVE AND POLICY CONSIDERATIONS

The planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and follows the NSW Department of Planning and Environment's 'Local Environmental Plan Making Guideline'.

Should the planning proposal proceed, the *Canada Bay Local Environmental Plan 2013* will be amended to permit Recreation Facilities (Indoor), with consent, within the R1 General Residential zone.

8. APPENDIX 2 – Council meeting minutes, 18 October 2022

See over page.

ITEM 9.3 PLANNING PROPOSAL (PP2022/0003) - RECREATION FACILITIES (INDOOR) IN R1 GENERAL RESIDENTIAL ZONE

RESOLVED 245/22

Moved: Cr Ferguson

Seconded: Cr Jago

That:

1. The Planning Proposal – Recreation Facilities (Indoor) in the R1 General Residential Zone at Attachment 1, be submitted to the Department of Planning and Environment for a Gateway Determination with the following amendment:
 - Recreational Facilities (Indoor) only be permitted on land within the R1 General Residential Zone that has a frontage to Tennyson Road, between Palace Lane and Herbert Street, and land that has a frontage to Edwin Street, between Tennyson Road to Hilly Street.
2. It be noted that the area defined in 1. above is the area where presently all currently operating gyms in Mortlake are located.
3. Delegation be requested from the Department of Planning and Environment to manage the plan making process.
4. Authority be delegated to the General Manager to make any minor modifications to the Planning Proposal.

In Favour: Crs Di Pasqua, Bazouni, Cordaro, Ferguson, Jago and Megna


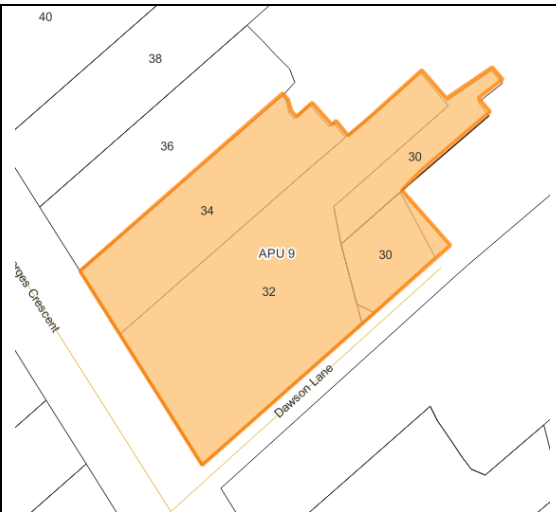
Against: Cr Tsirekas

CARRIED 7/1

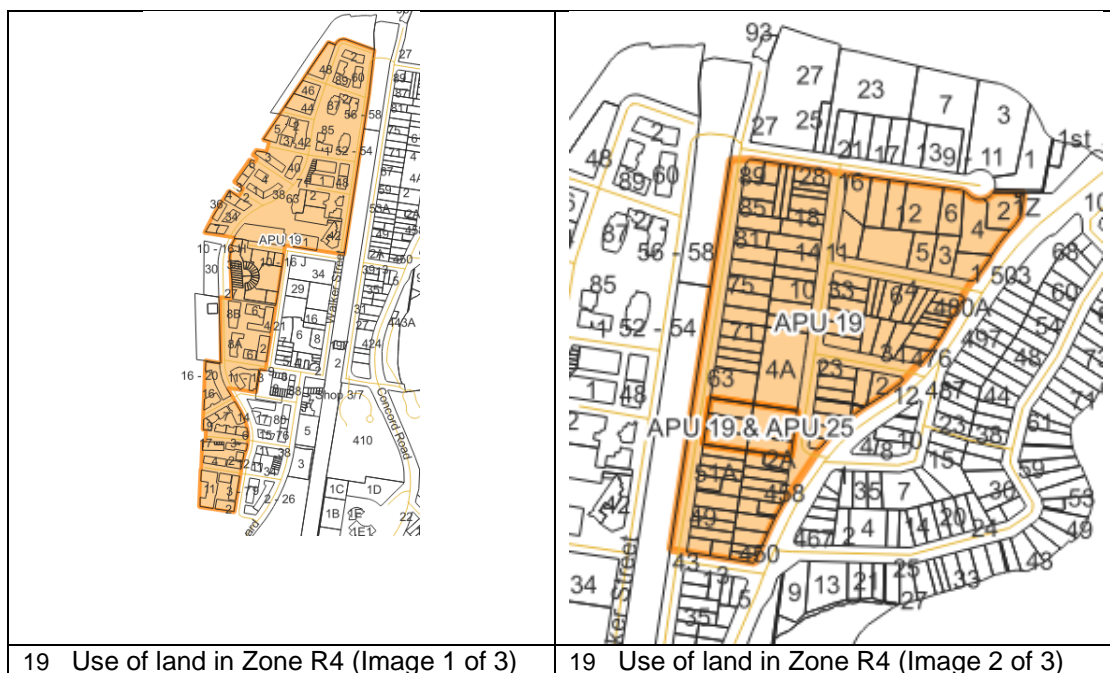
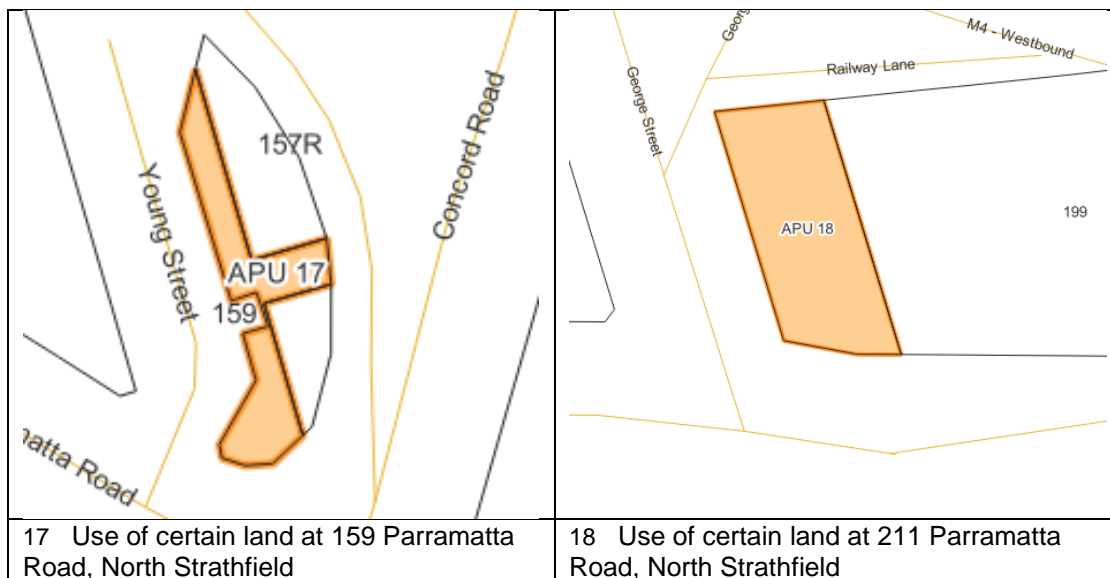
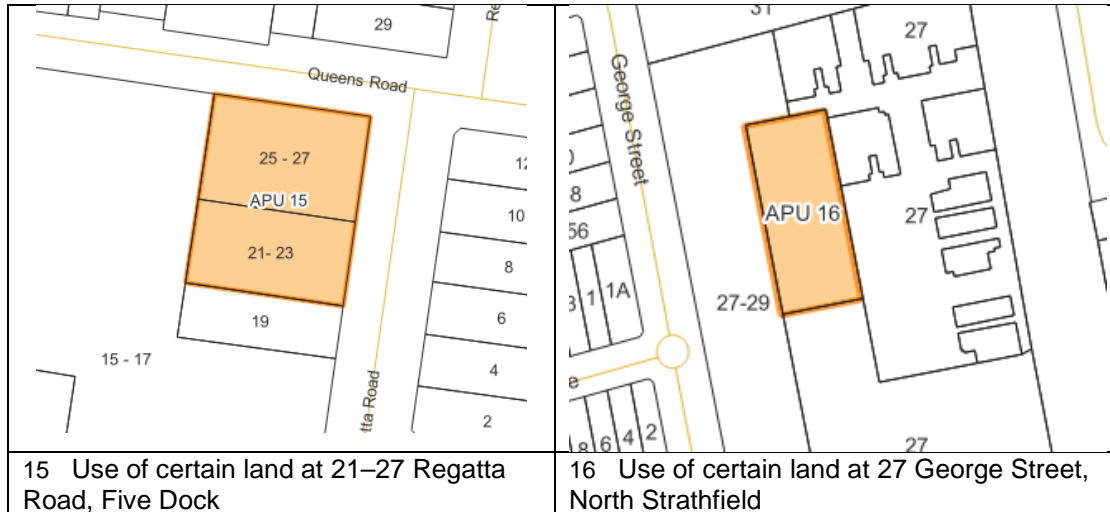
9. APPENDIX 3 – Additional Permitted Use Map Images

See over page.

<p>1 Use of certain land at 378 and 380 Great North Road, Abbotsford and Abbotsford House, 2 Abbotsford Cove Drive, Abbotsford</p>	<p>2 Use of certain land at 123 Peninsula Drive, Breakfast Point</p>
<p>3 Use of certain land at 1 and 2 Shore Road and 2 Bechert Road, Chiswick (Image 1 of 2)</p>	<p>3 Use of certain land at 1 and 2 Shore Road and 2 Bechert Road, Chiswick (Image 2 of 2)</p>

<p>4 Use of certain land at Concord Oval, 8 Gipps Street, Concord</p>	<p>5 Use of certain land at Killoola Street, Concord West</p>
	
<p>6 Use of certain land at 64 Victoria Avenue, Concord West</p>	<p>7 Use of certain land at Drummoyne Oval, Drummoyne</p>
	
<p>8 Use of certain land at 162-166 Victoria Road, Drummoyne</p>	<p>9 Use of certain land at 30-34 St Georges Crescent, Drummoyne</p>

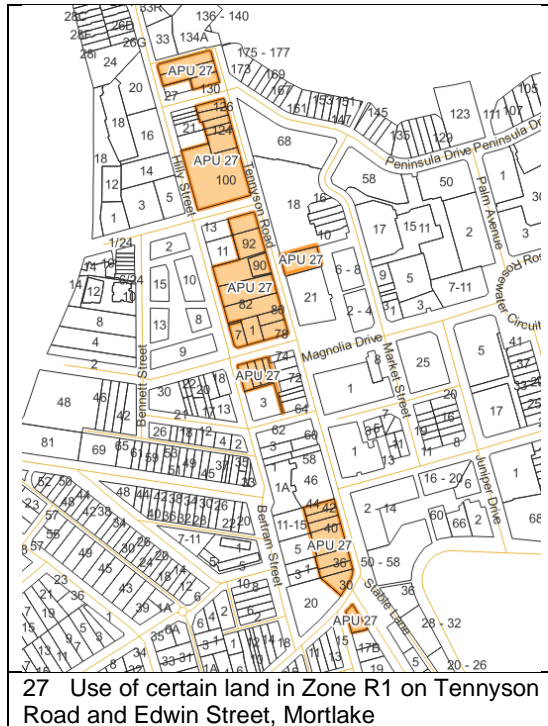
<p>10 Use of certain land at 380 Victoria Place, Drummoyne</p>	<p>11 Use of certain land at 13 Bevin Avenue, Five Dock</p>
<p>12 Use of certain land at Bevin Avenue, Five Dock</p>	<p>12A Use of land at 8 Bevin Avenue, Five Dock</p>
<p>13 Use of certain land at 104 and 104A William Street, Five Dock</p>	<p>14 Use of certain land at 49-51 Queens Road, Five Dock</p>



<p>19 Use of land in Zone R4 (Image 3 of 3)</p>	<p>20 Use of certain land at 355–359 Lyons Road, Five Dock</p>
<p>21 Use of certain land at Units 1 and 2, 2 Bechert Road, Chiswick</p>	<p>22 Use of certain land at Kings Bay Precinct</p>

<p>23 Use of certain land at 28–30 and 32–40 Burton Street, Concord</p>	<p>24 Use of certain land at 7 and 15–17 Regatta Road, Five Dock</p>

<p>25 Use of certain land at 2 and 2C Cavell Avenue and 57-61 Blaxland Road, Rhodes</p>	<p>26 Use of certain land at Leeds Street, Rhodes</p>



10. APPENDIX 4 – Gateway Determination, 23 December 2022

See over page.



Department of Planning and Environment

Gateway Determination

Planning proposal (Department Ref: PP-2022-4003) to permit Recreation Facilities (Indoor) on certain R1 General Residential zoned land within Mortlake and Breakfast Point as an additional permitted use (APU), make housekeeping updates to align all APUs under Schedule 1 and introduce a new APU map set in the Canada Bay LEP 2013.

I, the Manager, City of Sydney and Eastern Districts at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Canada Bay Local Environmental Plan 2013 to permit Recreation Facilities (Indoor) on certain R1 General Residential zoned land within Mortlake and Breakfast Point as an additional permitted use (APU), make housekeeping updates to align all APUs under Schedule 1 and introduce a new APU map set should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to provide a single map clearly showing all properties affected by the introduction of the new recreation facilities (indoor) APU.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Exhibition must commence within 2 months following the date of the gateway determination.

3. No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the EP&A Act
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the gateway determination;

- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The LEP should be completed on or before 23 September 2023.

Dated 23 day of December 2022.



Alexander Galea
Manager, City of Sydney and Eastern
District
Department of Planning and Environment
Delegate of the Minister for Planning