

DEVELOPMENT NO.:	24009522
APPLICANT:	Daniel Milky
ADDRESS:	5 VINCENT AV SOMERTON PARK SA 5044
NATURE OF DEVELOPMENT:	Change of use to an indoor recreation facility
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Employment <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Building Near Airfields • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development
LODGEMENT DATE:	17 Apr 2024
RELEVANT AUTHORITY:	Assessment Panel at City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.6 04/04/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Alexander Stamatopoulos Development Officer - Planning
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 3:	Representations
ATTACHMENT 1:	Application Plans	ATTACHMENT 4:	Response to Representations
ATTACHMENT 2:	Acoustic Report		

DETAILED DESCRIPTION OF PROPOSAL:

The application is for a change of use from a warehouse to an indoor recreation facility. The facility will operate as a fitness centre branded "FT HIIT" which is currently operating at 29 Byre Avenue Somerton Park approximately 50m to the east of the proposed site. The business operates fitness classes during the hours of 5am to 7am and 4:30pm to 7:30pm Monday to Friday which are their peak periods and also during the hours of 9:15am to 10:15am where class numbers are typically lower. Weekend hours are 6:30am to 8:30am on Saturdays and 8am to 9am on Sundays.

The maximum amount of patrons anticipated per class is 35 during peak periods and 12 during off-peak classes. No more than 2 staff will be located on-site at any given time. The applicant has engaged an acoustic consultant who has provided an assessment of the proposal taking into consideration noise emissions from the music being played during classes and from the use of fitness equipment.

SUBJECT LAND & LOCALITY:**Site Description:**

Location reference: 5 VINCENT AV SOMERTON PARK SA 5044

Title ref.: CT 5082/222 **Plan Parcel:** F9505 AL526 **Council:** CITY OF HOLDFAST BAY

The site is located on north-eastern corner of the Byre and Vincent Avenue intersection. The frontage to Byre Avenue is 24.38m and 21.03m to Vincent Avenue resulting in a total site area of 659sqm. The site contains existing land use rights are a warehouse which was previously tenanted by a plumbing business. The amenity of the locality is considered to be low dominated by commercial and light industrial-type land uses. It is noted that there is a mixed use site comprising a dwelling and skip bin business to the west at 20 Byre Avenue. The locality contains recently developed sites built to side and rear boundaries to maximise building floor areas with minimal on-site parking.

Below is a streetscape image of the subject site as view from Vincent Avenue.





Above: Aerial of the locality highlighted in red.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

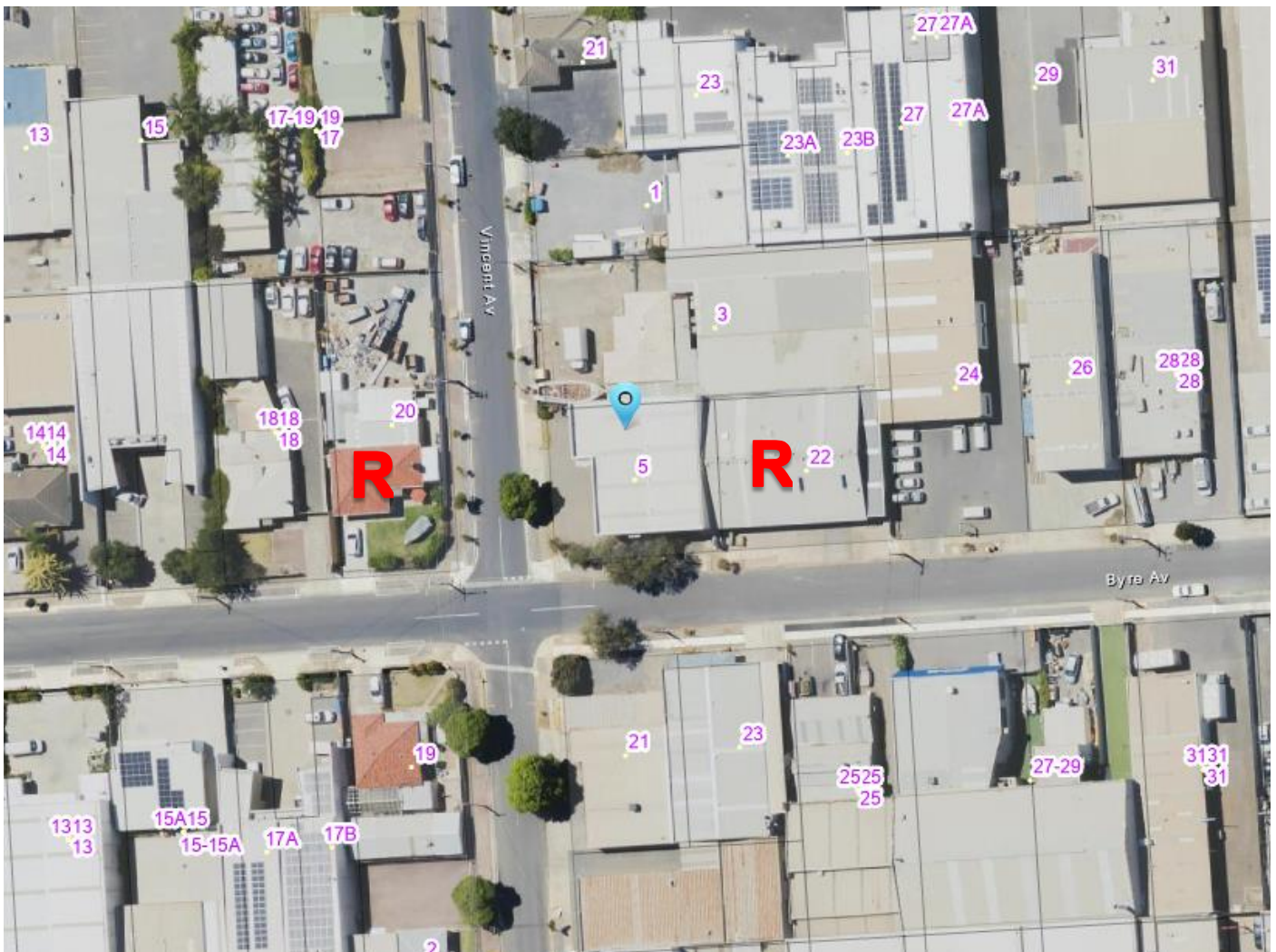
- **PER ELEMENT:**
Indoor recreation facility: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
 - An indoor recreation facility is not listed as a class of development in Table 5 of the Zone.

• LIST OF REPRESENTATIONS

Summary of Representors			
Address of Representor	Position	Wish to be heard	Concerns
Robyn Newman of 20 Byre Avenue Somerton Park	I oppose the development	No	<ul style="list-style-type: none"> - Concerns regarding the lack of on-site parking and also the high levels of traffic in the area - The noise emitted from the gym will impact the amenity of the representors dwelling.
Matthew Stone of 22 Byre Avenue Somerton Park	I oppose the development	Yes	<ul style="list-style-type: none"> - No comments were made



Above: Map showing the representors land marked “R”.

- **SUMMARY**

The applicant responded to the representation submitted as shown in attachment 3. Outlined in their response are the measures the gym has taken in their current site to ensure that their members park appropriately in the surrounding streets and also the increase in parking that the current site has in comparison to their existing premises. The applicant also alluded to the acoustic report as a reference to mitigating the concerns raised concerning noise emissions from the site.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

Nil

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One. The application is not seriously at variance with the provisions of the Planning and Design Code as the Desired Outcomes and Performance Outcomes of the Employment Zone anticipate an indoor recreation facility as an appropriate form of development.

Land Use

The land uses anticipated by the Employment Zone are shown below in PO/DPF 1.1.

PO 1.1

A range of employment-generating light industrial, service trade, motor repair and other compatible businesses servicing the local community that do not produce emissions that would detrimentally affect local amenity.

DTS/DPF 1.1

Development comprises one or more of the following:

- a) Advertisement
- b) Consulting room
- c) Indoor recreation facility

A fitness centre generates employment opportunities by hiring staff such as fitness trainers, administrative personnel, maintenance staff, and management. Additionally, it might create indirect employment through partnerships with local suppliers, vendors, and service providers. It is a service-oriented business that complements the immediate locality by attracting a steady flow of visitors who may also patronize nearby businesses. It can serve the local workforce by providing convenient fitness and wellness options, thereby enhancing the overall attractiveness of the Employment Zone.

Fitness centres are typically low impacting land uses compared to light industrial or motor repair businesses, making them compatible neighbours within the Employment Zone. They operate in enclosed spaces and usually maintain a clean and controlled environment. The fitness centre is an appropriate land use for the site satisfying PO 1.1 of the Employment Zone.

Interface Between Land Uses

To justify how the proposed fitness centre satisfies PO 1.2, PO 2.1, and PO 4.6, it needs to be demonstrated that the development has been designed and will be operated in a manner that minimizes adverse impacts on the sensitive receivers in the vicinity, specifically the residential dwelling located across the road at 20 Byre Avenue Somerton Park.

PO 1.2

Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts.

PO 2.1

Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:

- (a) the nature of the development*
- (b) measures to mitigate off-site impacts*
- (c) the extent to which the development is desired in the zone*
- (d) measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.*

PO 4.6

Development incorporating music achieves suitable acoustic amenity when measured at the boundary of an adjacent sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers.

DTS/DPF 4.6

Development incorporating music includes noise attenuation measures that will achieve the following noise levels:

Assessment location	Music noise level
Externally at the nearest existing or envisaged noise sensitive location	Less than 8dB above the level of background noise (L _{90,15min}) in any octave band of the sound spectrum (LOCT _{10,15} < LOCT _{90,15} + 8dB)

The applicant has engaged an acoustic consultant who provided specific recommendations to minimise noise impacts on the sensitive receiver (residential dwelling). These recommendations include:

- **Installation of impact sound absorbing flooring:** Will reduce noise and vibration from activities like the dropping of weights.
- **Sound absorbing wall coverings:** Using materials like carpet or draping on the walls will reduce the internal reverberation of amplified music and noise from dropping weights.
- **Blocking and isolating ceiling rotary extract vents:** This will help prevent noise from escaping through the roof and further reduce the overall noise impact.

These measures will effectively contain noise within the fitness centre, minimizing any potential disturbance to the nearby residential property.

While the adjacent property contains a dwelling, it is reasonable to expect a lower standard of noise sensitivity as the dwelling is located in an Employment Zone which anticipates higher impacting land uses as opposed to a Neighbourhood Zone. The acoustic measures recommended to be implemented by the fitness centre aim to balance the needs of both land uses without compromising the intended use of either.

The acoustic consultant's recommendations ensure that noise from music and other activities within the fitness centre will be effectively managed. The use of sound absorbing materials and isolation of noise sources will keep noise levels within acceptable limits at the boundary of the residential dwelling. Conditions are recommended that reference that the measures advised by the acoustic report be implemented into the building and also that the noise emissions shall not exceed the music noise level stated in DPF 4.6.

The proposed fitness centre satisfies PO 1.2, PO 2.1, and PO 4.6 by implementing specific acoustic treatments recommended by an acoustic consultant and considering the mixed-use nature of the surrounding area. These measures ensure that the fitness centre will not unreasonably impact the amenity of the sensitive receiver adjacent the site while providing a valuable service to the Employment Zone.

Transport, Access and Parking

To justify how the proposed fitness centre satisfies Performance Outcome 5.1 (PO 5.1), we need to demonstrate that the provision of parking spaces is sufficient to meet the needs of the development, considering the availability of on-street parking and the operating hours of the fitness centre.

PO 5.1

Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:

- (a) availability of on-street car parking*
- (b) shared use of other parking areas*
- (c) in relation to a mixed-use development, where the hours of operation of commercial activities complement*
- (d) the residential use of the site, the provision of vehicle parking may be shared*
- (e) the adaptive reuse of a State or Local Heritage Place.*

Indoor recreation facility	<p>6.5 spaces per 100m² of total floor area for a Fitness Centre</p> <p>4.5 spaces per 100m² of total floor area for all other Indoor recreation facilities.</p>
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The fitness centre provides 5 on-site parking spaces. While this is below the required 25 spaces based on the parking ratio shown in Table 1 - General Off-Street Car Parking Requirements, additional factors support this provision as outlined below.

The Somerton Park light industrial area, where the fitness centre is located, has historically high demand for on-street parking. However, the fitness centre's peak operating hours are strategically planned from 5am to 7am and 4:30pm to 7:30pm. These times are outside the typical operating hours of other businesses in the locality. This timing allows for maximum utilisation of available on-street parking spaces, as the demand for parking from other businesses will be significantly lower during these hours. Therefore, the fitness centre's parking needs can be met with the combination of on-site and on-street parking availability.

It is also worth noting that a review of the built form in the locality reveals that many sites in the area comprise allotments that are heavily developed with limited parking areas that will not meet on on-site parking demand of 25 spaces. This is a common characteristic of the area, suggesting a level of accepted non-compliance with the parking requirements due to practical constraints. Given this context, the best outcome for the locality, considering both the development needs and existing parking realities, is having the fitness centre operating during off-peak hours. This approach ensures that the fitness centre's parking demand does not exacerbate existing parking challenges during peak business hours.

The proposed fitness centre satisfies PO 5.1 by providing reasonable on-site parking in conjunction with the availability of on-street parking during its operating hours. The strategic planning of operating hours ensures that parking demand will minimise conflict with other businesses in the area, aligning with the intended land use for the Employment Zone. This approach addresses the practical constraints of the local built environment and ensures a balanced solution for parking needs.

CONCLUSION

The proposed fitness centre area demonstrates substantial merit and warrants planning approval based on the comprehensive assessment against relevant Performance Outcomes.

The fitness centre generates employment opportunities, supporting the economic objectives of the Employment Zone and provides a valuable health and wellness service to the local community, enhancing the quality of life for residents and workers. Although the on-site parking provision is below the required standard, the strategic peak operating hours of the fitness centre ensure that parking demand minimises conflict with surrounding local businesses. The availability of on-street parking during these off-peak hours adequately supports the fitness centre's parking needs.

The applicant has engaged an acoustic consultant and implemented recommended measures, including impact sound absorbing flooring, sound absorbing wall coverings, and isolation of ceiling vents, to minimize noise impact on the adjacent residential dwelling. While recognizing the proximity of a residential dwelling, the measures taken ensure that the fitness centre operates harmoniously within the mixed-use locality without unreasonably compromising the amenity of the sensitive receiver.

Given the mitigation strategies and the strategic planning of operating hours, the proposed fitness centre effectively addresses the intent of the Employment Zone, ensuring it will be a beneficial addition to the locality. Consequently, the application contains merit and warrants planning approval.

RECOMMENDATION

Planning Consent

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 24009522, by Daniel Milky is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

1. The development granted approval shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. That the development herein approved shall operate between the hours of 5am to 10:15am Monday to Friday, 6:30am to 8:30am Saturdays and 8am to 9am Sunday, inclusive unless written approval to vary the times is given by the Council.
3. That the music associated with the indoor recreation facility shall demonstrate compliance with Designated Performance Feature (DPF) 4.6 of the Interface between Land Uses module of the Planning and Design Code.
4. That all windows and doors of the building shall remain closed during fitness classes.
5. That the proposal incorporates all the recommendations from the associated SOUNDBASE report, including:
 - Installation of impact sound absorbing flooring to reduce the regenerated noise and vibration in areas where high levels of impact are expected including:
 - Free-weights areas
 - Any area free-weights are used or stored
 - Functional training areas; and
 - Pin and plate-loaded machine areas

- Installation of sound absorbing soft wall coverings such as carpet/draping to reduce internal reverberation of amplified music and weight drop noise.
- Blocking and Isolation of three ceiling rotary extract vents.

OFFICER MAKING RECOMMENDATION

Name: Alexander Stamatopoulos

Title: Development Officer - Planning

Date: 27/06/2024