

Wollongong Local Planning Panel Assessment Report | 18 July 2023

WLPP No.	Item No. 2
DA No.	DA-2022/769
Proposal	Commercial fitness training activities
Property	Rex Jackson Park Robertson Street & Charles Harper Park 4 Walker Street & Helensburgh Park Robertson Street HELENSBURGH NSW 2508
Applicant	Wollongong City Council Property Division
Responsible Team	Development Assessment and Certification - City Wide Team (JP)
Prior WLPP meeting	NA

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Reason for consideration by Local Planning Panel- Determination

The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Clause 1(a) of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, Wollongong City Council is the applicant.

Proposal

Commercial fitness training activities.

Permissibility

The site is zoned RE1 Public Recreation pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as a Recreation Facility (Outdoor) and is permissible in the zone with development consent.

Consultation

The proposal was exhibited in accordance with Council's Notification Policy and no submissions were received.

Main Issues

- General compliance

RECOMMENDATION

DA-2022/769 be approved subject to the conditions at Attachment 2.

1.1 PLANNING CONTROLS:

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- Wollongong Local Environmental Plan (WLEP) 2009
- Wollongong Development Control Plan 2009
- Wollongong City Wide Development Contributions Plan
- Wollongong Community Participation Plan 2019
- Other Council Policies: Commercial Fitness Training Activities on Public Open Space 2022, and Draft Plan of Management for Helensburgh Park Crown Reserves 2023

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises commercial fitness training activities limited to the normal activities of a registered personal trainer/instructor, that would include:

- outdoor gym sessions (with or without weights, fit balls, skipping ropes etc.),
- boxing and pad training,
- organised aerobic activity,
- yoga, Tai Chi and Pilates classes and like activities,
- circuit training, and
- a combination of any of the above.

The plan identifies four (4) areas to be utilised for fitness training with RJP01 having a maximum capacity of 18 participants, and RJP02, RJ03 and RJ04 each having 36 participants. The proposed operating hours are to 6.00am to 8.00pm Monday to Saturday and 7.00am to 10.00am Sundays and are consistent with Council's Commercial Fitness Training Activities on Public Open Space Policy.

Council's Property & Recreation division is the applicant and it is intended that, should consent be granted, a separate tender process be undertaken to lease/ licence the identified areas to a suitable commercial operator. Conditions of consent would form part of the licence/ lease agreement. As per cl 1.8 of Council's Commercial Fitness Trainer policy the licence agreement is likely to be greater than 6 months, but less than 5 years.

1.3 BACKGROUND

DA-2013/378 (commercial fitness training activities on public open space) was approved on 31 May 2013; however, it is understood that the consent has lapsed and related to Rex Jackson Park only.

No pre-lodgement meeting was held for the proposal.

1.4 SITE DESCRIPTION

The site is located at Rex Jackson Park Robertson Street & Charles Harper Park 4 Walker Street & Helensburgh Park Robertson Street HELENSBURGH NSW 2508 and the title references are Lot 517 DP 752033 Lot 940 DP 752033, RES D500345, Lot 7065 CROWN 1031042 Lot 7066 CROWN 1031042. The land is zoned as RE1 Public Recreation and is a multi-use sportsground used for rugby league, netball, cricket, soccer and skateboarding. The land also contains associated site facilities and amenities buildings such as change rooms and toilets and formal and informal car parking areas.

The site has an overall area of approximately 14ha.

The site is adjoined by residential dwelling houses to the west, south and southeast and otherwise surrounded by bushland.

The property is Crown Land managed by Wollongong City Council and is Community Land categorised as a "Sports Ground" (Figure 1 below).



Figure 1 –Community Land Management mapping

Property constraints

Council records identify the land as being impacted by the following constraints:

- Flooding: The site is identified as being flood impacted (Flood Affected-Levels Undetermined)
- Bushfire Prone

- Local Heritage item - Charles Harper Park and Monument

There are no restrictions on the title relevant to the proposal. No land constraints would prevent the proposed licence/ lease areas from operating.



Figure 2: Aerial photograph and proposed lease area

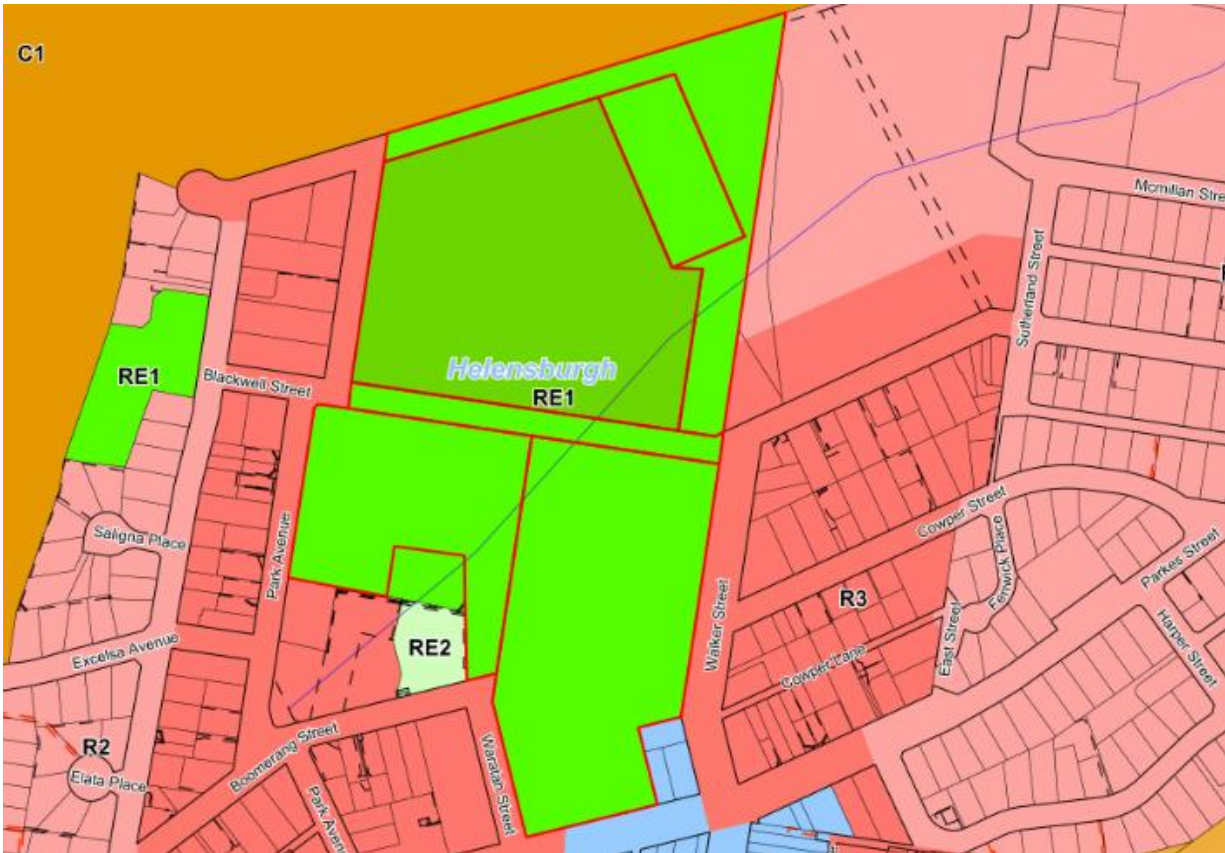


Figure 3: WLEP 2009 zoning map



Figure 4 - Site as viewed from the western of the park (c/o Google)

1.5 SUBMISSIONS

The application was exhibited in accordance with Council's Community Participation Plan 2019. No submissions were received.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Development Engineering

No objections are raised, and no conditions were recommended.

Property

No objections are raised. Conditions of consent were recommended and are included.

Recreation Services

No objections are raised, and no conditions were recommended.

Environment

No objections are raised. Conditions of consent were recommended and are included.

Community Land Management

No objections are raised, and no conditions were recommended.

Heritage Officer

No objections are raised, and no conditions were recommended.

1.6.2 EXTERNAL CONSULTATION

None required.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

Not applicable.

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 Coastal management

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

Note—

The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.

(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

(2) This section does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map.

Comment

A small area of Lot 517 DP 752033 has been mapped as being within the Proximity Area for Coastal Wetlands. The proposed commercial fitness training activities licence areas are located well outside of the mapped Proximity Area for Coastal Wetlands. Significant impacts on the biophysical, hydrological and ecological integrity of the adjacent mapped coastal wetlands, and the quantity and quality of surface and ground water flows to and from the adjacent mapped coastal wetlands would therefore not be expected.



Figure 5: Coastal Management Area mapping showing part of site affected by Proximity Area for Coastal Wetlands

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application

(1) *A consent authority must not consent to the carrying out of any development on land unless—*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

(2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

(3) *The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

(4) *The land concerned is—*

- (a) *land that is within an investigation area,*

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Comment

Comment

The site is currently used as a public park. A desktop audit does not reveal any previous uses that would suggest contamination of the site; therefore, the proposed use of the sportsground for commercial fitness training activities is considered satisfactory. It is considered the Panel may be satisfied that cl 4.6 matters have been addressed.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 4 Koala Habitat Protection 2021

The combined lots have an area of more than one hectare. No approved koala plan of management applies to the lots.

No clearing of habitat suitable for koalas is proposed. No potential indirect impacts from the development on koalas would be expected.

The development is not likely to have any impact on koalas or koala habitat.

2.1.3 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned RE1 Public Recreation.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To cater for the development of a wide range of uses and facilities within open spaces for the benefit of the community.*

The proposal is satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone.

Aquaculture; Boat sheds; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Helipads; Information and education facilities; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Signage; Take away food and drink premises; Water recreation structures

The proposal is categorised as a *Recreation facility (outdoor)* as defined above and is permissible in the zone with development consent.

Part 4 Principal development standards

There are no development standards applicable to the proposed development.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

Council's Heritage officer considered the application with regard to potential heritage impacts as required under Clause 5.10 of the Wollongong LEP 2009.

Part of the site is listed as a Local Heritage item Charles Harper Park and Monument. The proposed licence areas are also located outside of the listed area and away from significant movable heritage items.

Use of the park for fitness activities is an ongoing community use and is not expected to have any heritage impact.

Clause 5.21 Flood planning

The site is identified as being located in a flood affected area where the Flood Risk Precinct Classification is Levels Undetermined. The flood coding of the site does not affect the proposed use which will not take place in prolonged wet weather and/or flooding events. Council's Development Engineering officer raised no concerns.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The site is serviced by electricity, water and sewerage services.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

There are no draft planning instruments applicable to the proposed use.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER D1 – CHARACTER STATEMENTS

3.1 Helensburgh

Existing Character

Helensburgh is situated at the far northern boundary of Wollongong LGA and is bounded by the Royal National Park to the north and east, the F6 freeway and Princes Highway to the west and the Illawarra escarpment to the south.

Helensburgh has a unique country village character. It is characterised by a relatively low residential density and comprises a mix of older style single storey and two storey weatherboard, fibro and brick detached dwelling-houses in the earlier subdivisions whereas the newer release area subdivisions predominantly contain single storey and two storey brick and pitched roof tile dwelling-houses. Small pockets of medium density villa, townhouse and 3 storey walk-up flat developments also exist in the vicinity of the town centre.

The Helensburgh retail and town centre is generally one to two storeys in height and contains a medium sized supermarket and a variety of retail shops and other business and medical services which serve the daily and weekly convenience needs of the area. The trade area of Helensburgh is primarily confined to the township of Helensburgh and the neighbouring villages of Otford, Stanwell Tops, Stanwell Park, Coalcliff and Clifton.

Helensburgh contains Australia's first traditional Hindu temple and also features a number of rural land uses, particularly on the western and southern parts of the suburb.

Desired Future Character

Helensburgh has one of the highest growth rates in the Wollongong Area. This growth is likely to continue over the next 5 – 10 years.

The mix of dwelling styles in Helensburgh is likely to remain given that the new release area subdivisions are likely to contain larger contemporary style dwellings whilst the older settlement areas will contain a mix of older weatherboard, fibro and brick dwellings with the replacement of some older dwelling stock with larger two storey contemporary designed dwellings.

Shop top housing will also be encouraged within the Helensburgh town centre.

The Helensburgh town centre is likely to comprise of up to 20,000m² of retail floor space and will serve a trade area population of approximately 10,000 – 20,000 people. The centre will focus on the provision of weekly and daily convenience goods and services to cater for the needs of the surrounding community but will also provide a limited range of non-retail professional and non-retail personal services such as dry cleaning and Australia Post. The centre will be anchored by at least one to two medium scale to full line supermarket(s) and is likely to also include a fruit and vegetable store, bakery, butcher and a limited range of non-retail services including pharmacy, hairdressers, medical practitioners, video / entertainment hire outlet etc.

Higher order retailing and business services are likely to continue to be provided between Wollongong City Centre and Corrimal town centre as well as the southern Sydney suburbs of Engadine, Miranda, Sutherland and Kogarah.

Conservation of significant bushland and protection of downstream water quality will remain important priorities for Helensburgh.

Comment: The proposal is considered to be consistent with the existing and desired future character for the locality.

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

This chapter of the DCP does not provide any parking controls specific to the proposed use. The limited numbers attending the proposed fitness training activities and the controlled scale of the use having regard to the nature of the site and the availability of car parking spaces is such that impacts on local traffic and car parking will be minimal. Council's development engineer has provided a satisfactory referral, without conditions of consent.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The site is identified as being located within a flood risk precinct, under review. There is no built form proposed and the use will only operate in dry weather conditions. Accordingly the flood attribute of the site raises no concerns. Council's development engineer has provided a satisfactory referral, without conditions of consent.

CHAPTER E16: BUSH FIRE MANAGEMENT

2.2 Category 1 Vegetation

Category 1 vegetation appears as orange on the map and represents forests, woodlands, heathlands, pine plantations and wetlands. Land within 100 metres of this category (indicated by the red buffer on the map) is also captured by the Bush Fire Prone Land Map due to the likelihood of bushfire attack.

Comment: Portions of the north and east of the site are within the 100m red buffer area; however, no training areas are affected, and there are no applicable development controls.

Commercial Fitness Training Activities on Public Open Space Policy

Wollongong City Council plays a significant role in providing recreational opportunities and the supporting infrastructure on public land that encourages physical activity among the community. In addition to Council's provision, there is a demand for commercial fitness trainers to provide assistance in enhancing public health and well-being. In supporting the use of public open space for such fitness endeavours, Council recognises the need to plan and coordinate for the provision and maintenance of open space to limit the potential impact of activities and ensure equitable use of open space.

The purpose of this policy is to provide for the effective management of commercial fitness training activities occurring on public open space to ensure that they are delivered in a manner which protects public infrastructure, minimises disturbance to surrounding residents and addresses public risk concerns.

The main objectives of this policy are to:

1. 1 To ensure the sustainable use of public open space while providing equitable access for general community use and commercial fitness training activities.
- 2 To encourage and support the utilisation of public open space for health and recreational pursuits.
- 3 Reduce and manage the potential impact of commercial fitness training activities on public assets.
- 4 Minimise public liability concerns.

The considerations outlined in the policy Approval Process, Exclusion Zones, Activities for which the Policy applies, Prohibited Activities, Exempt Activities/Groups, Signage, Enforcement, and Term of Licence.

These requirements will be included in any licence issued by Council. Council's Community Lands, and Environment officers have provided satisfactory referrals, subject to compliance with the above policy, standard licencing including the requirements above, and supporting conditions of consent.

2.4 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

DEVELOPMENT CONTRIBUTIONS

Wollongong City-Wide Development Plan - City Wide

The Wollongong City-Wide Development Contributions Plan applies to the subject property. This Plan levies a contribution based on the estimated cost of development. The proposed cost of development* is less than \$100,000 - contributions do not apply.

2.5 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.6 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

2 Savings

Any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.

2000 Regulation means the Environmental Planning and Assessment Regulation 2000 as in force immediately before its repeal on 1 March 2022.

6 Determination of BASIX development

Not applicable.

61 Additional matters that consent authority must consider

Not applicable.

62 Consideration of fire safety

Not applicable.

63 Considerations for erection of temporary structures

3 Not applicable.

3.1 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

The proposal is considered acceptable with regard to the likely impacts.

3.2 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

3.3 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

No submissions were received.

3.4 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The proposal is in keeping with Council's adopted policies for fitness activities on Community Land.

2.11 LOCAL GOVERNMENT ACT 1993 Division 2

Use and Management of Community Land

Rex Jackson Park, Charles Harper Park and Helensburgh Park is Community Land as identified under the Draft Plan of Management for Helensburgh Park Crown Reserves 2023 (PoM), and identifies the land as a Sportsground. The proposed use will be located within an area of the sportsground mapped as community land and permissibility is subject to the requirements of the WLEP 2009.

36F of the LG Act identifies the core objectives for management of community land categorised as a sportsground as—

(a) to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and

(b) to ensure that such activities are managed having regard to any adverse impact on nearby residences.

The proposed use of the site is generally consistent with the core objectives for management of community land categorised as a sportsground.

Low intensity commercial activities are permitted under the POM in accordance with the Regulations. The proposal is consistent with the short-term casual purposes identified in Section 116 of the Regulations as follows:

116, Leases, licences and other estates in respect of community land

A licence to be issued by Council's Property Unit is required to use Community Land. Any requirements under this Section are confirmed by Council's Property Unit. A Licence for the occupation of the land would form part of any conditions.

In summary, the proposal is not considered to result in any adverse impacts and is satisfactory with regard to the zoning and applicable planning controls. No submissions were received following notification, and satisfactory referrals were received from specialist Council staff.

4 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies. The proposal is considered supportable in its current form.

The proposed development is permissible with consent and is consistent with the zone objectives. There are no departures sought in respect of WLEP2009 or variations to WDCP2009 controls.

It is envisaged that environmental and social impacts arising from the proposed fitness training sessions will be minimal. Regulation of the use through Licence Agreements and conditions of consent will ensure the activity will effectively be managed by Council and operate in accordance with Council's adopted policy for this type of development.

5 RECOMMENDATION

DA-2022/769 be approved subject to the conditions at Attachment 2.

6 ATTACHMENTS

1. Statement of Environmental Effects
2. Conditions

ATTACHMENT 1

STATEMENT OF ENVIRONMENTAL EFFECTS

Rex Jackson & Charles Harper Park, Helensburgh

Site Description

The site is located at Rex Jackson Park, Robertson Street, HELENSBURGH NSW 2508 and the title reference is Lot 940 DP 752033. The land is comprised of 9 parcels of land that have a combined area of approximately 7.5ha. The land forms a multi-use sportsground that includes current uses such as rugby league, netball, cricket, soccer and skateboarding. The land also contains associated site facilities and amenities buildings such as change rooms and toilets and formal and informal car parking areas. The park is accessible from Walker Street, Park Avenue and Waratah Street.

The property is owned by State of NSW and is Community land categorised as a sportsground.

Development Description

The proposed activity is regulated by the issuing of Licence Agreements with Council (Section 47 Local Government Act 1993) through the Property & Recreation Division and the conditions as outlined in Wollongong City Council's Policy for *Commercial Fitness Training Activities on Public Open Space* (adopted June 2018).

The types of commercial fitness training activities are limited to the normal activities of a registered personal trainer/instructor, which would include:

- outdoor gym sessions (with or without weights, fit balls, skipping ropes etc.),
- boxing and pad training,
- organised aerobic activity,
- yoga, Tai Chi and Pilates classes and like activities,
- circuit training, and
- a combination of any of the above.

The following potential impacts and identified controls complement the *Commercial Fitness Training Activities on Public Open Space* policy.

Potential Impact	Control Measures
vegetation	It is envisaged that there will not be an impact to local flora and fauna as the proposed activities will be limited to turfed areas within existing public open space which is maintained regularly as a park.
Lighting	No additional lighting infrastructure is proposed for this Development Application. Commercial fitness training activities will be centred on available daylight hours. Existing lighting may be utilised where spill over occurs within public open space.

<p>Noise</p>	<p>To ensure that any noise which may occur as a result of commercial fitness training activities does not impact significantly on other users of public open space, neighbouring residents and businesses, the Council Policy for 'Commercial Fitness Training Activities on Public Open Space' identifies general prohibitions for noise and Licence Agreements will reinforce this.</p> <p>In addition, Council will determine the number of persons permitted per group and the number of groups that are issued a Licence. The size of a site will be determined by Council and identified in a Licence Agreement.</p> <p>Noise is further limited through restrictions on the hours of operation for outdoor commercial fitness training. Hours of operation as identified in the policy are <u>Monday to Saturday 6am – 8pm and Sunday 7am – 10am</u>. Hours of operation were developed in the policy based on community consultation.</p>
<p>Neighbours/Community /Public Use</p>	<p>To limit the impacts of conducting commercial fitness training activities on neighbouring residents and businesses, such activity will be permitted between defined hours of operation as per the final adopted Council Policy and a Licence Agreement. Failure to operate within these specified times will be dealt with in accordance with a Termination clause outlined in a Licence Agreement.</p> <p>Commercial fitness training activity providers will be required to comply with conditions identified through a Licence Agreement. Licence agreements will be issued on a non-exclusive use basis.</p> <p>It is anticipated that increased commercial fitness training activities will benefit the community through the provision of additional outdoor recreational opportunities which may lead to enhanced community cohesion, health and wellbeing.</p>
<p>Environment</p>	<p>The proposed development and associated commercial fitness training activities are in accordance with the current land zonings of RE1 Public Recreation. RE1 relates to the Draft Wollongong City Council LEP 2009 and defines a 'recreation area' as <i>'a place used for outdoor recreation that is normally open to the public, and includes:</i></p> <ul style="list-style-type: none"> <i>(a) a children's playground, or</i> <i>(b) an area used for community sporting activities, or</i> <i>(c) a public park, reserve or garden or the like, and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).'</i> <p>In addition, the proposed activity of conducting commercial fitness training activities is consistent with the core objectives of Community Land of Wollongong City Council. This Development Application will support the effective management of such activities to minimise the environmental and social impacts and will aid in enhancing public enjoyment of Community Land.</p>
<p>Maintenance</p>	<p>Due to the nature of the proposed commercial fitness training activities, it is not envisaged that additional maintenance requirements will be imposed upon Council's parks maintenance staff. The identified site is currently maintained to a sufficient standard for such activities to occur.</p>

Access	Without proper management, commercial fitness training activities have the potential to limit or inhibit public access to some areas of public open space. This Development Application will form part of a management process of such activities and through a Licence Agreement, commercial fitness training activities will be limited to selected areas within the parcel of public open space. Such areas will be determined through an assessment of the site's current and future use and will ensure the maintenance of thoroughfare access for all park users. It is proposed that a Licence Agreement will be issued on a non-exclusive basis. A licence agreement will clearly identify the base location within the area of public open space.
Waste management	It is unlikely that any significant amount of waste/litter will be generated as a result of the proposed activities and standard garbage receptacles already exist in such public open space. To reinforce this responsibility to reduce waste impacts on public open space as a result of those undertaking commercial fitness training activities, the Council Policy for 'Commercial Fitness Training Activities on Public Open Space' identifies that 'licence holders are required to ensure the area used for personal training sessions is clean and tidy after use and that such is communicated to session participants'.
Visual Amenity	The conducting of commercial fitness training activities does not generally impact upon the visual amenity of public open space which is designed to cater for recreational activities as such. The Council Policy for 'Commercial Fitness Training Activities on Public Open Space' prohibits the installation of fixed structures and identifies that equipment used to aid in commercial fitness training activities is to be stored off site.
Traffic /Parking	It is anticipated that the impacts of commercial fitness training activities on local traffic and car parking will be minimal due to the group size limit and existing provision of car parking. The Council Policy for 'Commercial Fitness Training Activities on Public Open Space' reiterates car parking requirements as follows; 'Licence holders and participants are required to park in designated parking areas. Parking on grassed open space is not permitted and will incur penalties in accordance with Section 632, Section 650 and Section 651 of the Local Government Act 1993.'
Amenities	Due to the nature of commercial fitness training activities, sessions are mostly limited to brief lengths of time. Therefore, is it not envisaged that there will be a need for the provision of additional amenities for public open space users.
Signage	In understanding the potential public safety hazards associated with temporary signage installed daily within public open space (particularly adjoining footpaths), the Council Policy for 'Commercial Fitness Training Activities on Public Open Space' the following limitation is noted; 'The erection of advertising signs and banners without Council's written consent'.

Risk Management	<p>To reduce the potential risks associated with undertaking fitness training activities, the Council Policy for 'Commercial Fitness Training Activities on Public Open Space' requires that all 'licence holders must, prior to commencing commercial fitness training activities, inspect the immediate area to ensure no hazards are evident and take appropriate action to remove those hazards or alternatively move the training site and, without undue delay, report to Council the hazard or any other hazardous matters observed during the training that may require Council's attention'.</p>
Insurance	<p>Should Development Consent be granted, it is anticipated that a Licence Agreement issued by Council's Property & Recreation Division will identify the following indemnity provision which require that commercial fitness training operators;</p> <p style="padding-left: 40px;">'must take out and maintain in their name, for the duration of the term of the Licence Agreement, public liability insurance for a minimum of \$10 million (or such greater amount as Council may reasonably require) and produce documentary evidence of this at the time of application and at time of renewal'.</p>
Cumulative Impacts	<p>In assessing the cumulative impacts of the proposed activity, it is envisaged that environmental and social impacts will be minimal. Through regulation via Council Policy and Licence Agreements, the activity may be more effectively managed by Council and other users of public open space.</p> <p>Ultimately, applications for licences and the number of licences to be issued will be determined by Council taking into account the following factors:</p> <ul style="list-style-type: none"> • Usage demand, intensity of use of the area and times requested. • Number of approved trainers already using the area. • Type of activities to be undertaken and the potential impact on other users and neighbouring residents during the times requested. • Whether the activities will contribute to increasing congestion or user conflict in the area requested.

Attachment 2

Approved Plans and Specifications

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No	Revision No	Plan Title	Drawn By	Dated
gi10246_port_2022.mxd		Rex Jackson Park & Charles Harper Park	Wollongong City Council	12 July 2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

General Matters

2. Industry Compliance

All commercial fitness activities must be undertaken in accordance with the recommendations and guidelines of Fitness Australia or other relevant peak body.

3. Licence Agreement

Prior to the commencement of fitness training operations, commercial users of the site must enter into an appropriate licence arrangement with Council under the provisions of Council's Commercial Fitness Training Activities on Public Open Space policy adopted on 12 September 2022 and amended from time to time.

4. Insurance

In accordance with the provisions of Council's Policy entitled 'Commercial Fitness Training Activities on Public Open Space' the operator of fitness training activities conducted under this consent must take out and maintain in their name, for the duration of the term of the Licence Agreement, public liability insurance for a minimum of \$10 million (or such greater amount as Council may reasonably require). Evidence of such insurance shall be required to obtain a Licence from Council.

5. Protection of Environment

The fitness training operator must carry out activities at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise (by means including, but not limited to, whistles, excessive shouting, high impact boxing and the like), access impediment or other activity, to the general public or other commercial fitness trainers using the land.

6. Protection of Public Infrastructure

No permanent fitness/exercise structures are to be installed at any time and in the event of any damage to any of its infrastructure such as the park furniture and trees within the site being identified, Council must be notified within 24 hours of discovering any such damage.

Adequate protection must be provided for Council infrastructure during commercial fitness training operations.

7. Separate Consent Required for Advertising Signage

This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development, under Schedule 2 of Wollongong Local Environmental Plan 2009.

Any new application for advertising signage must be submitted to Council in accordance with Chapter C1 – Advertising and Signage Structure of Wollongong Development Control Plan 2009.

Operational Phases of the Development/Use of the Site

8 Capacity

The participant capacity of the licence areas shall be limited to the following:

RJP01: 18 participants

RJP02: 36 participants

RJP03: 36 participants

RJP04: 36 participants

These limits shall be reflected in the respective Licence Agreement for each area.

9 No Nuisance

The commercial fitness training activity operator must carry out activities at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, access impediment or other activity, to the general public or other commercial fitness trainers using the land.

10 Public Address System

The commercial fitness training activity operator must not install or operate a public address system or sound amplifying equipment in the licensed area without the prior consent of Council.

11 Erosion Control

The commercial fitness training activity operator must not conduct activities in areas that are not sturdy underfoot by way of being well turfed or having a sealed surface. Turfed areas soaked from prolonged rainfall must be avoided by commercial fitness training groups.

12 Waste Management

The commercial fitness training activity operator must ensure all waste generated by the activities is lawfully disposed of. This can include the provision of a waste receptacle or ensuring their clients are aware of existing waste receptacles available on the site. Consideration should be given to the source separation of recyclable and reusable materials.

13 Restricted Hours of Operation

The hours of operation for the development shall be restricted to 6.00am to 8.00pm Monday to Saturday and 7.00am to 10.00am Sundays. Any alteration to the approved hours of operation will require separate Council approval.

14 Site Left Clean and Tidy

The commercial fitness training activity operator must ensure the site is left clean and tidy after use.

15 General Public Use to take Precedence over Commercial Operations

Where access conflicts arise between commercial fitness training operations and the general public, general public access is to be given precedence over commercial fitness training operations at all times.

16 Parking

Licence holders and participants are required to park in designated parking areas and to obey parking restriction signs. Parking on grassed open space is not permitted. Instances/events of parking required on any area other than marked bays or kerb side will require prior approval via a section 4.55 modification to the development consent.

17 Prolonged Rainfall Events

The applicant is advised that under existing conditions and during prolonged rainfall events, flooding of the site may occur and it is in the applicant's interest to take all necessary precautions to minimise the risk of property loss and/or damage.