



Mr Martin De Jager
Prestige Town Planning Pty Ltd
on behalf of Collective Wellness Group
T/a Anytime Fitness
Suite 1, Level 1, 200 Mann Street
GOSFORD NSW 2250

D156/22
RB6 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 156/22/2 - APPROVAL**

Development Consent Number: 156/22

Land to which this applies: 110-112 Alexander Street, Crows Nest
Lot No.: 14, SEC: 7, DP: 1265

Applicant: Mr Martin De Jager, Prestige Town Planning Pty Ltd, on behalf
of Collective Wellness Group t/a Anytime Fitness

Proposal: Modification of DA 156/22 to modify conditions A1, A4.3, G8,
and Delete Condition C9; for Internal Modifications,
Mechanical ventilation systems, Roofing alterations, Electrical
reconfiguration for Ausgrid requirements, the incorporation of
a Solar Photovoltaic (PV) System and minor signage
amendments

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **156/22** and registered in Council's records as Application No. **156/22/2** relating to the land described as **110-112 Alexander Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **5 August 2022**, has been determined in the following manner:

- To retain condition A1 of the consent and insert the following new condition A5, namely:***

Development in Accordance with Plans/Documentation (S.4.55 Modifications)

- A5. The development must be carried out in accordance with A1 as modified by the following drawings and documentation and endorsed with the Council's approval stamp, except where amended by the following conditions of this consent.***

PLANS REF:

Plan No.	Issue	Description	Prepared by	Dated
A000	D	Cover Page, Location Plan and Site Plan	Leffler Simes Architects	22.12.2022
A100	B	Existing and Demolition Plans	Leffler Simes Architects	14.12.2022
A101	C	Proposed Floor Plans	Leffler Simes Architects	22.12.2022
A110	B	Ground Floor Partition Plan	Leffler Simes Architects	22.12.2022
A111	C	Upper Levels Partition Plan - 1 of 2	Leffler Simes Architects	22.12.2022
A112	C	Upper Levels Partition Plan - 2 of 2	Leffler Simes Architects	22.12.2022
A150	B	Existing and Proposed Front and Rear Elevations	Leffler Simes Architects	14.12.2022
A160	B	Existing and Proposed Cross Sections	Leffler Simes Architects	14.12.2022
A200	A	Proposed Reflected Ceiling Plans (RCP)	Leffler Simes Architects	14.12.2022

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

2. Amend Condition A4 as follows:

Terms of Consent

A4. Approval is granted in this consent (DA 156/22) to the following:

- 1) *Gymnasium within ground floor tenancy: approval is granted for fit out works and associated signage at 110-112 Alexander Street, Crows Nest as follows:*
 - a. *Staff numbers: three at any time*
 - b. *Maximum client numbers: 40 at any time*
 - c. *Hours of operation: 24 hours, seven days, including public holidays, with staffing between 5am and 8pm*
 - d. *CCTV security system and one wall-mounted television*
- 2) *Office premises within first floor tenancy: approval is granted for fit out works and parking provision (5 car parking spaces including 1 accessible space and 4 bicycle parking spaces) at 110-112 Alexander Street, Crows Nest as follows:*
 - a. *Staff numbers: maximum of 20 at any time*
 - b. *Hours of operation: 7am to 7pm, Monday to Friday, excluding public holidays*
- 3) *Signage*
 - a. *1 x building identification sign showing logo of figure and 'Anytime Fitness' with dimensions of 750mm in height and 1800mm in length, to be located on the front elevation under the awning, with illumination via internally fitted LEDs.*
 - b. *1 x business identification sign showing '110' to be located on the right-hand side of the entry way*
 - c. *1 x business identification sign showing 'Anytime Fitness' with dimensions of 250mm in height and 1000-3800xmm in length, to be located on the top right corner of the ground floor level glass*
 - d. *1 x graphic vinyl decal in blue white along base top of window wall, to not obscure more than 20% of the glass window*

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear.)

3. Modify Condition C9 No Approval for Mechanical Ventilation or Air Conditioning to read as follows:

Approval for Mechanical Ventilation and Air Conditioning

C9. New mechanical ventilation and air conditioning plant is approved under this modification. The Certifying Authority issuing the Construction Certificate must ensure that the building plans and specifications provided by the Applicant and referenced on and attached to the Construction Certificate fully satisfy the requirements of this conditions.

(Reason: To comply with the terms of this development consent)

4. Condition C21 is to be modified as follows:

Noise and Vibration Compliance Certification Prior to Issue of Construction Certificate

C21. A certificate for an appropriately qualified acoustical consultant eligible for membership for the Association of Australian Acoustic Consultants, certifying that suitable measures have been incorporated into the development including the approved air conditioning systems and the mechanical ventilation plant and equipment, and that the noise criteria contained in the conditions herein have been satisfied, must be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Principal Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

5. Condition G8 is to be modified as follows:

Compliance with Certain Conditions

G8. Prior to the Issue of any Occupation Certificate **Conditions C9, G3, I10 and I11** must be certified as having been implemented on site and complied with.

Reasons for Approval:

The proposed modification is considered to be generally consistent with the originally approved development application and s.4.55(2) of the EP&A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granting of development consent to the originally approved development and are considered to be acceptable.

The modification to the approved gymnasium and commercial premise (offices) propose changes which are consistent with the original approval and provide increased solar access within the front section of the first-floor level which improves the amenity of the offices. The development as modified is substantially the same development as originally consented to and will not have any unreasonable amenity or environmental impacts.

The modification also improves the acoustic treatment on both levels which will improve amenity in the immediate vicinity and provides for solar panels on the central and rear sections of the roof, and provides for BCA upgrades to the building, minor internal reconfiguration, installation of air conditioning and mechanical ventilation which will improve internal amenity on both levels, and minor alteration to the approved signage.

Having regard to the provisions of section 4.55(2) and 4.15(1) of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally consent to. The application is therefore recommended for **approval**, subject to appropriate standard and site-specific conditions.

How community views were taken into account:

The proposal is considered to be in the public interest for the reasons stated throughout this report.

The conditions attached to the original consent for Development Application No. **156/22** by endorsed date of **5 August 2022** still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Ruth Bennett**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of *the Environmental Planning and Assessment Act 1979* (the 'Act') are to be complied with:
 - (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
 - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of *the Environmental Planning and Assessment Act, 1979* (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of *the Environmental Planning and Assessment Act*.

Endorsed for and on behalf of North Sydney Council

31 March 2023

DATE



Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)