

Original signed by David Hoy on 16/11/2021

Date determined: 10/11/2021

Date operates: 16/11/2021

Date lapses: 16/11/2026

Australian Catholic University Limited  
40 Edward Street  
NORTH SYDNEY NSW 2060

D146/21  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
NOTICE OF DETERMINATION – Approval**

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**Development Application Number:** 146/21

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**Land to which this applies:** 33 Berry Street, North Sydney  
Lot No.: 1, DP: 567697

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**Applicant:** Australian Catholic University Limited

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**Proposal:** Increase hours of operation of existing gym floor to between  
6 am to 10 pm Monday to Friday and 8 am to 6 pm weekends.

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**Determination of Development Application:** Subject to the provisions of Section 4.17 of the Environmental  
Planning and Assessment Act 1979, approval has been granted  
subject to conditions in the notice of determination.

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**Date of Determination:** 10 November 2021

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**Reason for approval:** The application has been assessed against all applicable  
environmental planning instruments and Council policies and  
was found to be generally satisfactory, including in relation to  
the North Sydney LEP 2013 and North Sydney DCP 2013,  
subject to conditions.

Having regard to the provisions of Section 4.15 of the EP&A  
Act 1979, the application is considered to be satisfactory as  
detailed in the assessment report.

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**Consent to operate from:** 16 November 2021

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**Consent will lapse on:** 16 November 2026

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**Period of Consent**

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite by 16 November 2026

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**How community views were taken into account:**

The proposal was notified and advertised in accordance with Part A, Section 4 *Notification of Applications* of North Sydney DCP 2013 and no submissions were received.

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**Review of determination and right of appeal:**

Within 6 months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

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Plans endorsed by the consent authority – please refer to condition A1.

**Endorsed for and on behalf of North Sydney Council**

**16 November 2021**

DATE

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

(i) **Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the Act.

(ii) **Definitions**

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

**Applicant** means the applicant for this consent.

**Approved Plans** means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

**AS** or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

**NCC** means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

**Council** means North Sydney Council.

**Court** means the Land and Environment Court.

**Local Native Plants** means species of native plant endemic to North Sydney LGA.

**Stormwater Drainage System** means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

**Owner** means the owner of the *site* and successors in title to the *site*.

**Owner Builder** has the same meaning as in the *Home Building Act 1989*.

**Principal Certifier** for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

**Principal Contractor** for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

**Professional Engineer** has the same meaning as in the *NCC*.

**Public Place** has the same meaning as in the *Local Government Act 1993*.

**Road** has the same meaning as in the *Roads Act 1993*.

**SEE** means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

**Site** means the land being developed subject to this consent.

**NSLEP 2013** means *North Sydney Local Environmental Plan 2013*

**NSDCP 2013** means *North Sydney Development Control Plan 2013*

**Work** for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** – Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

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**A. Conditions that Identify Approved Plans**

**Development in Accordance with Plans/Documentation**

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

Drawing Name	Received
Site Plan ACU Gym	18 May 2021

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

**Plans on Site**

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

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

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

**I. Ongoing/Operational Conditions**

**Hours of Operation**

- I1. The Gymnasium may be open for business only between the following hours:

Proposed Hours: Monday-Friday 6:00am - 10:00pm  
Weekends 8:00am - 6:00pm

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

**Noise Impact On Surrounding Area**

- I2. Use of the premises shall not cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries.

(Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines)

**No Entertainment**

13. This approval is for a gymnasium only and does not authorise musical or other forms of entertainment. A separate development consent and Place of Public Entertainment licence would be required for such activities/events.

(Reason: Clarification of terms of this consent and ensure compliance with relevant legislation)

**Patron Behaviour**

14. The gymnasium proprietors shall take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises.

(Reason: To ensure patrons do not interfere with the acoustic amenity of residents in the immediate locality)