

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/1644
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<b>Responsible Officer:</b>	Reeve Cocks
<b>Land to be developed (Address):</b>	Lot 1 DP 1282038, 4 - 8 Inman Road CROMER NSW 2099
<b>Proposed Development:</b>	Use of Premises as an Indoor Recreation Facility, fitout and signage
<b>Zoning:</b>	Warringah LEP2011 - Land zoned E4 General Industrial
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	The Trust Company (Australia) Limited
<b>Applicant:</b>	Prestige Town Planning

<b>Application Lodged:</b>	23/11/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Industrial
<b>Notified:</b>	30/11/2023 to 14/12/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 601,700.00
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### PROPOSED DEVELOPMENT IN DETAIL

This development seeks consent to change the land use of the existing 'Unit 9' tenancy at 4-8 Inman Road Cromer from an industrial "Warehouse" to a 24-hour 'Anytime Fitness' gymnasium - Indoor Recreation Facility.

The applicant proposes 24/7 operating hours via 24-hour fob key access.

The facilities will operate with a maximum of four (4) staff members, with staffed operating hours proposed as follows:

Monday - Thursday: 10:00am – 7:00pm  
Friday: 10:00am – 4:00pm Saturday: 10:00am – 2:00pm

Sunday: Unstaffed.

The facility proposes to limit group classes to no greater than ten (10) patrons. A total of 12 parking spaces will be provided onsite with access to an additional sixty-two (62) shared car parking spaces within the basement of the site available for use.

Specifically, the works comprise of the following:

- An internal commercial gym fit out for the proposed purpose, including the installation of showers and changeroom facilities, guest lobby, PT office and staff room.
- The retention of all existing bathroom amenities, including a fully accessible suite.
- The installation of a high-tech security system with remote viewing CCTV.
- Installation of various acoustic abatement materials, flooring and finishes.
- Infill of the existing roller door with framed glazing and the creation of four (4) additional car parking spaces.
- Associated business identification signage.

## **ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## **SUMMARY OF ASSESSMENT ISSUES**

Warringah Local Environmental Plan 2011 - Zone E4 General Industrial  
Warringah Development Control Plan - C3 Parking Facilities  
Warringah Development Control Plan - D3 Noise  
Warringah Development Control Plan - D23 Signs

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 1 DP 1282038 , 4 - 8 Inman Road CROMER NSW 2099
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### Detailed Site Description:

The subject tenancy consists of a 1141m<sup>2</sup> allotment located on the northern side of South Creek Road.

The site is regular in shape with frontages to both Inman Road and South Creek Road with the subject warehouses main accessway being via South Creek Road. The site has a surveyed area of m<sup>2</sup>.

The site is located within the E4 General Industrial zone and accommodates multiple commercial and warehouse structures on site with some parking facilities.

The site (the subject warehouse area) is generally flat with minimal sloping.

The site (the subject warehouse area) is entirely concreted with no landscaped area. The application relates to internal works only with the exception of signage on the building.

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a combination of industrial use areas, residential use areas and special characteristics areas.

Map:



### SITE HISTORY

The land has been used for industrial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

#### DA2019/1346

Development Consent DA2019/1346 was granted on 17 August 2020 for the redevelopment of the property then known as 4-10 Inman Road, Cromer, NSW, 2099 or Lot 1/-/DP1220196 for eleven (11) industrial Warehouse units, five (5) Office Tenancies and a total of 231 on site car parking spaces.

#### DA2021/2608

Development Consent DA2021/2608 was granted on 24 June 2022 for a change in land use of “Warehouse 1” to an Indoor Recreation Facility (Swim School), including internal fit-out, reconfiguration of car parking and signage.

#### DA2022/1807

Development Consent DA2022/1807 was granted on 30 January 2023 for a change in land use of “Warehouse 11” for the purposes of an Indoor Recreation Facility (Golf Facility).

#### DA2023/0294

Development Consent DA2023/0294 was granted on 18 July 2023 for a change in land use of “Warehouses 7 and 8” for the purposes of an Indoor Recreation Facility (Trampoline Facility).

#### DA2023/1142

Development Application DA2023/1142 was submitted to Council on 21 August 2023 for a change in land use of “Warehouse 2” to an Indoor Recreation Facility (Padel Tennis Centre) and is currently under assessment.

#### DA2023/1107

Development Application DA2023/1107 was submitted to Council on 31 August 2023 for a change in land use of “Office C” for the purpose of a Child Care Centre and Landscaping, and is currently under assessment.

#### DA2023/1202

Development Application DA2023/1202 was submitted to Council on 7 September 2023 for a change in land use of “Office No. 4” for the purpose of an Indoor Recreation Facility (“Rumble” Boxing Facility), including internal fit-out and associated signage, and is currently under assessment as of writing this report.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to submitting required documentation (survey identification plan) and waste management plans.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.



Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 30/11/2023 to 14/12/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>This application is seeking consent to operate an Anytime fitness gym 24/7 in Unit 9 of 4-8 Inman Road, Cromer. The area is zoned Industrial with the nearest residential receiver close to 200m away from Unit 9. The Plan of Management and Statement of Environmental Effects outline management strategies for noise management relating to gym activities. Environmental Health recommends approval subject to conditions.</p>

Internal Referral Body	Comments		
Strategic and Place Planning (Heritage Officer)	No		
	HERITAGE COMMENTS		
	Discussion of reason for referral		
	This application has been referred as the site contains a heritage item, being <b>Item 152 - Roche Building</b> and within the vicinity of 2 other heritage items being <b>Item 153 - Givaudan-Roure Office</b> and <b>Item 138 Trees - Campbell Avenue</b> , which are all listed within Schedule 5 of Warringah LEP 2011.		
	Details of heritage items affected		
	Details of the heritage item on site, as contained within the Heritage Inventory, are: <b>Item 152 - Roche building</b> <u>Statement of Significance</u> A substantial & excellent example of an industrial complex in the late 20th Century international style. Displays high degree of integrity. One of first industrial complexes set in substantial landscaped grounds. Socially significant due to landmark nature		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	Comment if applicable
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	However, Roche building was previously on RAIA Register
	Other	No	
	Consideration of Application		
	This application is for the fitout and use of Warehouse unit 9 as a gym (Anytime Fitness), including affixing of vinyl backing to existing glazing and three business identification signs. Sign 1 is on the front of the unit next to the door, Sign 2 is on the office projection, facing north/west and Sign 3 is on the south/east facade facing South Creek Road.		
Warehouse 9 is part of the new buildings on this site and is located away from the retained former Roche heritage buildings. Therefore, no heritage concerns are raised in relation to the fitout and use of this warehouse building as a gym nor the proposed business identification signs. It is considered that this proposal will not have any adverse visual impact upon the heritage significance of the site.			

Internal Referral Body	Comments
	<p><b>Therefore, no objections are raised on heritage grounds and no conditions required.</b></p> <p><u>Consider against the provisions of CL5.10 of WLEP 2011:</u>  Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A  Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? Yes (simple)</p>
Traffic Engineer	<p>The development application is for a change of use of unit 9 at 4-8 Inman Road from a warehouse to a gymnasium.</p> <p><u>Traffic Generation</u></p> <p>The gym has been estimated to generate a peak hour traffic volume of 48 trips with this traffic evenly split between inbound and outbound movements and distributed over a number of different intersections and over the two site driveways. It is considered that the additional traffic can be absorbed within the surrounding road network</p> <p><u>Parking</u></p> <p>The unit has 4 existing parking spaces allocated to the unit and proposes to create another 4 along the frontage of the roller shutter as the roller shutter will not be required to support the use. A further 4 parking spaces will be allocated to the gym from the basement parking. i.e a total of 12 parking spaces will be available for use by staff and customers of the gymnasium.</p> <p>Council's DCP requires 4.5 parking spaces per 100m<sup>2</sup> of GFA for gym uses however, as the applicant's traffic engineer discusses, Council's DCP parking rates are derived from rates in the RMs Guide to Traffic Generating Development and those rates have since been updated based upon new parking surveys. The updated surveys have found that for gym uses an average parking demand of 2.8 space per 100m<sup>2</sup> of GFA was now more apparent. This would still equate to a parking requirement of 33 spaces for the proposed gym at unit 9.</p> <p>The applicant's traffic consultant has further reviewed parking demands generated by other similar gymnasiums also operated by the proposed operator Anytime Fitness (including two in the Northern Beaches). Using this data a 95th percentile peak parking demand of 24 parking spaces for the proposed development has been estimated. While this level of parking demand is accepted as appropriate for this site, this will mean that the required parking is not able to be fully accommodated on site with the dedicated parking supply still 12 spaces under capacity.</p>



Internal Referral Body	Comments
	<p>The traffic report does however also indicate that the gym will also have 24 hour 7 day a week access to the unallocated pool of 62 basement parking spaces. Given the above, the car parking needs of the development should be able to be adequately accommodated offstreet.</p> <p><u>Bicycle Parking.</u></p> <p>It is also noted that the overall Business Park makes provision for some 40 bicycle parking spaces, and that another bicycle can be securely stored in the staff office. The need for additional bike parking specifically for the gym is minimal and bicycle parking needs should be adequately addressed.</p>
Waste Officer	The amended plans were referred to Councils Waste team who raised no issues.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

### State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

#### SEPP (Transport and Infrastructure) 2021

##### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or

an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

## SEPP (Resilience and Hazards) 2021

### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for industrial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the commercial land use.

## Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	
zone objectives of the LEP?	Yes

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	As existing	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

#### Detailed Assessment

#### **Zone E4 General Industrial**

Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is consistent with the provisions of Clause Zone E4 General Industrial of the Warringah Local Environmental Plan 2011. Council notes that the proposed use is for a gymnasium which falls under the recreation facility (indoor) definition under the Warringah LEP 2011. The E4 General Industry zone does not explicitly permit or prohibit the use and it is therefore considered permissible with consent.

#### **Warringah Development Control Plan**

##### Built Form Controls

The proposed development relates only to internal works within an existing tenancy footprint (with the exception of proposed business identification signage). Specifications and an assessment against site planning considerations with regard to wall height, exterior envelope, setbacks, views and vistas, open space and landscaping are not relevant.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6 Merit Assessment of Side Boundary Setbacks	N/A	N/A
B10 Merit assessment of rear boundary setbacks	N/A	N/A
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D23 Signs	No	Yes
E1 Preservation of Trees or Bushland Vegetation	N/A	N/A
E2 Prescribed Vegetation	N/A	N/A
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

### **C3 Parking Facilities**

#### Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- To provide adequate off street carparking.*

#### Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Indoor recreation facility	Gymnasium Area	4.5 spaces per 100 m2 GFA.	12 parking spaces are proposed to be provided with 4 allocated car parking spaces along the frontage, 4 allocated car parking spaces in the basement car park and 4 additional parking spaces proposed along the building frontage. Officer Note: The subject gymnasium will also have	-39

			24/7 access to the shared pool of 62 car parking spaces in the basement.	
<b>Total</b>		51 car parking spaces	12 car parking spaces	-39

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The proposed and existing car parking spaces are provided within an existing business park and are not located directly on or adjacent to a street frontage or other public place. It is considered that for these reasons the provided parking facilities will have minimal impact on the street frontage or other public places.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The proposed and existing car parking spaces are separated from the street frontage by landscaping and treed areas, limiting the bulk and scale of the parking facilities as viewed from the streetscape.

- Additional Comments:

It is noted that the applicant is proposing a significant non-compliance with the required car parking spaces. While the applicant is required to provide 51 car parking spaces it is unlikely that the proposed use will need that many spaces constantly. The gymnasium is proposed to operate 24/7 which allows for the opportunity to disperse customer use times. Although it is likely that there will be peak times the provided access to the 62 basement car parking spaces will provide adequate parking spaces to deal with this load. While not able to be considered with regard to car parking spaces required to be provided, it is noted that there is a large number of on street car parking spaces along Inman Road that can additionally support the peak parking requirements.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### D3 Noise



The nearest residential receivers are located at approximately 137m behind existing and proposed industrial buildings. Due to the large distance and shielding effect of the structures, as well as masking from higher localised noise levels, there is no acoustic impact on any residential receivers from the typical expected gymnasium sound output.



The nearest affected tenancy, is the adjacent warehouse at Unit 8 in the same building, in accordance with the NSW INP amenity criteria shall have a noise level not exceeding 65 dB(A).

It is considered that the above considerations raised in the Acoustic report satisfy any noise concerns.

## D23 Signs

### Description of non-compliance and/or inconsistency

The application proposes 3 pieces of signage consisting of the following:

Sign	Requirement	Sign Identification	Width	Height	M <sup>2</sup>	Complies
Wall sign (painted onto a wall of a building or attached to the wall of a building, not being a sign elsewhere listed in this table)	Shall not extend within 200mm of the top and sides of the wall. Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level ground; and Shall not project more than 300mm from the wall.	Sign 1	3100mm	200mm	0.62	No
		Sign 2	2400mm	600mm	1.44	Yes
		Sign 3	4500mm	940mm	4.23	Yes

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*

Comment: The proposed signage is suitably located to allow for the identification of the proposed business 'anytime fitness'.

- *To achieve well designed and coordinated signage that uses high quality materials.*

Comment: The proposed materials are consistent with other established anytime fitness sites previously approved by Council.

- *To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*

Comment: The proposed signage does not result in an adverse visual impact on the streetscape or the surrounding locality. The site is located in an approved business park and is immediately adjoined by other industrial warehouse and commercial sites.

- *To ensure the provision of signs does not adversely impact on the amenity of residential properties.*

Comment: There are no residential properties that immediately adjoin the subject site (warehouse). The signage will not be visible from any adjoining residential properties.

- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

Comment: The proposed signage will have no impact on heritage items, conservation areas or open space.

An assessment of the application has also found the development to be consistent with the requirements of *State Environmental Planning Policy No. 64 - Advertising and Signage*.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported,

in this particular circumstance.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$6,017 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$601,700.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2023/1644 for Use of Premises as an Indoor Recreation Facility, fitout and signage on land at Lot 1 DP 1282038, 4 - 8 Inman Road, CROMER, subject to the conditions printed below:

### Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA01.01	a	Site Plan	Archispectrum	3 November 2023
DA03.01	a	Proposed Tenancy Plan - Ground Floor	Archispectrum	3 November 2023
DA03.02	a	Proposed Tenancy Plan - Mezzanine Floor	Archispectrum	3 November 2023
DA04.02	a	Proposed Elevations	Archispectrum	3 November 2023
DA05.01	a	Site Analysis	Archispectrum	3 November 2023

Approved Reports and Documentation	
Document Title	Version Number
Traffic and Parking Impacts Report	Report No. 23056 Rep
Plan of Management	-
Heritage Impact Statement	-
Fire Safety Report	-
Building Code of Australia 2022 Report	-

Development Application Acoustic Report	-
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In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

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

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## 2. **Approved Land Use**

Nothing in this consent shall authorise the use of onsite tenancy as detailed on the approved plans for any land use of the site beyond the definition of a recreation facility (indoor), in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

***"recreation facility (indoor) means 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."***

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

## 3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:



- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

#### 4. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian

Standards.

- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out

v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$6,017.00 is payable to Northern Beaches Council for the provision

of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$601,700.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

## 6. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### 7. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **8. Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones are monitored and installed correctly.

## **DURING BUILDING WORK**

### **9. Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

## **BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

### **10. Signage and Linemarking - Internal**

All parking spaces serving the gym are to be marked and signposted for exclusive use of the gym. Appropriate wayfinding signage directing cyclists to the bicycle parking is also to be provided.

A plan showing the implemented linemarking and signposting is to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: to ensure parking availability for clients including cyclists.

### **11. Acoustic Review**

An acoustic consultant is to be engaged to assess compliance with the project criteria (as set out in Acoustic Report by Norrebro Design dated 8 November 2023), including internal acoustics and mechanical services noise control.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To ensure compliance with project noise criteria.

## **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

### **12. Noise Management - On-Going**

The recommendations detailed in the Acoustic assessment report prepared by Norrebro Design (dated 8 November 2023) and approved by Council prior to Occupation Certificate, must be complied with in perpetuity. In addition, speaker noise and music shall not exceed 5dBA above the background noise level.

Reason: To minimise noise nuisance to sensitive receivers.



13. **Class Size Limit**

The class sizes are to be limited to no more than 10 participants in accordance with what has been proposed within the Statement of Environmental Effects.

Reason: To ensure that provided services do not exceed the subject sites capacity or impact its ability to function.

14. **Allocation of Spaces**

The car parking spaces shall be provided, made accessible, and maintained, at all times. The spaces shall be allocated as follows:

12 - Commercial/Retail

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure that adequate parking facilities to service the development are provided on site.

15. **Hours of Operation**

The hours of operation are 24 hours a day, Monday to Sunday Inclusive.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

16. **Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

17. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.

18. **Plan of Management**

The Plan of Management dated 7 November 2023 prepared by Anytime Fitness, is to be implemented at all times during the operation of the business.

Reason: To ensure acoustic compliance in an operational situation.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Reeve Cocks, Planner**

The application is determined on 14/03/2024, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**