

## Appendix C: Online Submissions to NSW Planning Portal Exhibition and HillPDA Stakeholder Engagement

### 1. NSW Planning Portal Exhibition Submission Message - Screenshot from [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au) (Public Information)

planningportal.nsw.gov.au

Novus on Albert - 763-769 Pacific Highway, Chatswood - Build-to-Rent | Planning Portal - Department of Planning and Environment

Name Withheld
Object
▼

Plus Fitness Chatswood

Object
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PUNCHBOWL , New South Wales

#### Message

Our longstanding small business within in the Chatswood community is located in one of the buildings of the Proposed Development Site. The document attached demonstrates Novus's ineffective engagement, absence of fair and productive dialogue and absence of response to the negative impacts on an existing small business, including omissions and diluted inaccurate representations of the actual issues raised, in the EIS. This builds speculation regarding Novus's extent of transparency, the credibility of their consideration and responsibility to the community and highlights that the EIS is incomplete, calling into question the integrity and reliability of the EIS.

The attached document also demonstrates the lack of consideration and mitigation planning for existing small business should the Recommendations for further investigative works and demolition be conducted. Finally, the attached document outlines the lack of regard to the health and safety of the community during the investigative work that were completed as part of the EIS.

Supportive documentation is available on request. Specific names have been hidden in the document to ensure compliance with submission guidelines.

#### Attachments

[Novus Exhibition Submission](#)

Name Withheld
Object
▼

## 2. NSW Planning Portal Exhibition Submission Attachment titled ‘Novus Exhibition Submission’ (Public information)

This submission is three-fold and is concerned with: (1) lack of effective engagement and the negative impact on existing small businesses; (2) lack of consideration and mitigation of the negative impacts of EIS Report Recommendations on existing small businesses; and (3) the risk to the health and safety of the community and environmental protection.

### 1. Lack of Effective Engagement and Negative Impact on Existing Small Businesses

#### 1.a. Early Engagement

The EIS presents Novus’s Development as a community-centric and socially responsible project. Our existing small business (and tenancy) is located within the Proposed Development Site.

On the 9th of December 2022, we received an email from our landlord with an attachment of a screengrab. The screengrab was an email address to our landlord and signed off by, (Name Hidden), Novus’s CEO. In this email, the Novus CEO stated the purpose of his email was to “*provide some additional context*” to us (the Tenant) during our landlord’s “*discussions*” with us.

The Novus CEO’s email outlined the details of Novus’s plans to complete disruptive “*substantial works*” which involve “*demolition and excavation*” to semi-attached buildings during our tenancy “***regardless of whether [our business] chooses to accept [Novus’s] proposed amendment to [our business’s] existing demolition clause as [Novus] are within [their] rights to do so (noting that [Novus] are aiming to commence demolition by September 24)***”. It is noteworthy that our lease term ends in year 2026.

The substantial works listed include: “*excavating several floors*”; using “*very noisy machinery*”; a “*constant flow of trucks*” and “*road closures*”; “*scaffolding, gantries and pedestrian clearances*”.

Our legal counsel was consulted, and on the 15<sup>th</sup> December 2022, our legal counsel responded to the Novus CEO with a letter advising that the works described in his email, by law, is likely to be considered a “*Derogation from the grant of the lease*”, a “*Nuisance*” and that there are reasonable grounds to order an “*Injunction*” should Novus proceed with work foreshadowed in the Novus CEO’s email. The letter also stated that we were open to engaging in commercial negotiations.

Whilst the screengrab of the Novus CEO’s email states that Novus is “*willingness to provide fair and equitable compensation*”, Novus has not proposed or provided any consideration, possible solutions to limit disruption to our business, or compensation. We have not received a response to the letter sent to the Novus CEO from our legal counsel, nor have we received a response to a direct email we sent to the Novus CEO stating our wishes for open and transparent discussion regarding past activities, future plans and timelines.

To provide context, preceding our receipt of the screengrab of the Novus CEO's email, our landlord phoned us on the 6<sup>th</sup> December 2022 to advise us of Novus's interest in our tenancy and to assess our agreeableness in accommodating Novus's proposed amendment to our demolition lease clause.

On the 8<sup>th</sup> December 2022, as requested, via email, we provided our landlord with our business's projected financial losses should we agree to the lease clause amendment. On the 9<sup>th</sup> December 2022, our landlord sent an email stating he had "passed on the news" to Novus, with the attached screen grab of the Novus CEO's email.

Novus has failed to:

- (a) facilitate fair, productive and civil dialogue to address the issues raised.
- (b) respond to our correspondence and communicate how they have considered and will address the issues raised/possible solutions.
- (c) incorporate transparent and clear information of the Development's negative impact on our small business and their demonstrated lack of productive dialogue and response to these issues in the EIS.

#### 1.b. HillPDA Community Engagement Survey (Round 2)

On the 21<sup>st</sup> May 2024, we completed a submission to Novus's community engagement survey facilitated by HillPDA (Round 2). The 350-character limit for submission for this survey limits the opportunity to provide essential context. Nonetheless, we provided our name and contact details and therefore, the assumption is that Novus is aware of the issues that pertain to us.

Nevertheless, our HillPDA submission was not accurately represented in the EIS.

Our submission stated:

*"Novus CEO [Name Hidden] has stated in writing that our business should expect significant disruption as a result of their development. This undermines their commitment to supporting the community. There is evidence to show lack of adherence to health & safety regulations and guidelines during the preparation of the EIS by Novus representatives".*

And in the EIS, our submission was described as:

*"...concern around possible disruption to surrounding receivers and occupational health and safety considerations during the construction phase of the proposed development".*

Furthermore, the stated 'Action taken' in the EIS, is a vague tick-a-box response. Essentially the response is an admission of Novus's planned absence of action. It does not provide any amendments or resolution to the significant and disruptive "substantial works" described in the Novus CEO's email which by law can be reasonably considered a Derogation from the grant of lease, once Novus take ownership of the Proposed Site. We did not receive any information, correspondence or further engagement from Novus in response to our HillPDA submission.

**Comment:**

The omissions and diluted inaccurate representations in the EIS of Novus's engagement with our small business (i.e., the issues raised and Novus's lack of consideration, response and outcome) builds speculation regarding Novus's extent of transparency, the credibility of their consideration and responsibility to the community and most importantly highlights that the EIS is incomplete and calls into question the integrity, reliability and legitimacy of the EIS.

**2. Lack of Consideration and Mitigation of the Negative Impact the Recommendations (as set out in the Preliminary Site Investigation and Targeted Site Investigation Reports) will have on Existing Small Businesses.**

The tests and assessments completed, by Novus appointed technicians, as part of the requirements for EIS, have caused disruption and interference of business operations and nuisance.

As Novus is not the owner of the Proposed Site, for the past 18 months, these tests and assessments have placed significant strain on our relationship with our landlord whose interest lies with the approval of this Development. We have had to engage our legal counsel on several occasions to defend our right to quiet enjoyment of our lease, demand our landlord cease and desist from tortious interference with contract, and to defend our rights to limit the risk to health and safety of our staff, customers and community (see point 3).

We have incurred significant and unexpected financial loss in legal fees, in addition to cost of resources to respond to ongoing and relentless correspondence from our landlord on this matter and the negative impact the uncertainty has had on our business's trajectory.

The recommendations outlined in Preliminary Site Investigation, as part of the EIS, lacks consideration of our small business, placing us in a more vulnerable position against a large corporation who has demonstrated a lack of regard and fair and transparent response of their Development's impact on our small business and livelihood.

The Recommendations outlined in the Preliminary Site Investigation Report state that further assessments that carry Hazardous risks should be undertaken "*prior to the proposed site demolition*". The Recommendations outlined in the Targeted Site Investigation Report state that "*A Hazardous Material Survey (HMS) of the existing building must be undertaken prior to the commencement of any demolition works*".

Furthermore, the Recommendations outlined in the Preliminary Site Investigation Report state that "*A Stage 2 Detailed Site Investigation should be undertaken...I recommend the DSI is conducted after the demolition of the site structure otherwise drilling may be limited to accessible areas of the site*". And that "*...these recommendations can be managed through the development application process...*".

**Comment:**

These Recommendations do not consider the fact that the Proposed Site encompasses several **buildings**, and that it is not a single building, one of which is the location of our small business with a tenancy agreement in place until year 2026. As noted above, the investigative works completed as part of the EIS have caused significant interference and disruptions to our small business.

The Recommendations do not include that *all buildings* that make up the Proposed Site must be vacant prior to commencement of the Hazardous investigations for the purpose of limiting further disruption and interference to our legal right to quiet enjoyment of our lease, our business operation and the risk to our health and safety.

In addition, if Staged demolition and investigation works is intended, Novus has failed to provide documented comprehensive mitigation strategies and appropriate engagement that is fair and transparent. We request that our occupancy at the Proposed Site and existing business be considered and that further investigative works be put on hold until the conclusion of our existing tenancy in year 2026.

**3. Risk to Health and Safety and Environmental Protection**

The conduct demonstrated during investigative tests and assessments (Geo-Tech drillings - 1<sup>st</sup> August and 2<sup>nd</sup> August 2023, and Hazmat Survey - 15<sup>th</sup> March 2024) completed by Novus appointed technicians, as part of the requirements for EIS, provide reason for concern about Novus's commitment to limiting the risk to health and safety of the community and environment. These concerns are demonstrated by:

- Documented environmental breach for inappropriate disposal of unearthed materials (i.e., washing pollution onto public paths).
- PPE not worn.
- Breaking of fibre-cement sheets which may contain asbestos and leaving broken edges of the sheets, that remained in the building, unsealed.
- Did not engage in decontamination measures prior to entering other neighbouring properties risking cross-contamination.
- Did not provide a risk assessment when requested.
- Failure to provide exclusion zones.
- No caution or warning signs displayed onsite.

**Comment:**

If Novus appointed technicians are unable to uphold and maintain Australian Standards and Regulations during the initial assessments, it is not unreasonable to expect substantial breaches and potentially significant risk to health and safety of the public during the recommended further investigative works (set out in the EIS Reports) and the larger construction phase.

### 3. HillPDA Submission 21<sup>st</sup> May 2024



#### Community Survey (Round 2)

Submitted By : Aziz Ishak

Submitted On : 2024-05-21 23:34:54

Organisation Name :

Phone :

Email :

**Q.1 Are you a resident or a business?**

- A. ☐ Resident  
☒ Business

**Q.2 Do you think the proposed development would impact you during construction (positively or negatively)?**

- A. ☒ Yes  
☐ No

**Q.3 Do you think the proposal would impact you when complete (positively or negatively)?**

- A. ☒ Yes  
☐ No

**Q.4 Do you have any other comments or questions about the proposal?**

- A. Novus's CEO Mr. Hirst has stated in writing that our business should expect significant disruption as a result of their development. This undermines their commitment to supporting the community. There is evidence to show lack of adherence to health & safety regulations and guidelines during the preparation of the EIS by Novus representatives.

#### 4. Email Confirmation of HillPDA Submission 21<sup>st</sup> May 2024

##### Survey Completed Acknowledgement

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From: HillPDA (submissions@hillpda.com)

To: 

Date: Tuesday 21 May 2024 at 11:36 pm AEST

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Dear Aziz,

This email acknowledges your online submission.

To download a copy of your submission, please visit your user dashboard.

[http://hillpda.engagementhub.com.au/surveys/user\\_submitted\\_survey](http://hillpda.engagementhub.com.au/surveys/user_submitted_survey)

Thank You

## Appendix D: Novus's Non-Disclosure of Materials in their EIS and RTS:

- Mr Adam Hirst's Correspondence (9<sup>th</sup> Dec 2022) Via Landlord email
- Solicitor Formal Response to Mr Hirst's Correspondence

### 1. Exert from Novus's EIS (Appendix KK – Stakeholder Engagement, June 2024, p. 17)

Issue type	Issue(s) raised in survey	Action taken
		<p>station in response to the recommendations of the heritage report.</p> <ul style="list-style-type: none"> <li>• The Design Competition Jury endorsed the proposed approach to the heritage interpretation of the former fire station, noting that: <ul style="list-style-type: none"> <li>– “The Jury acknowledged the existing fire station façade heritage item cannot be retained due to the relevant planning controls for street widening and setbacks”; and</li> <li>– “The Jury commended the proposed approach to heritage interpretation, including the materiality, fenestration, scale, form, colour and portal geometries to express the podium, which refers to but does not mimic the fire station on the site. In this regard, the Jury is supportive of a subtle, sophisticated and intelligent response to the heritage considerations of the site”.</li> </ul> </li> <li>• The heritage interpretation of the former fire station façade was further resolved in the lead up to SSDA lodgement, based on the findings and recommendations of the Heritage Report, the Design Competition Jury, advice from Council, DPHI, Artefact and the DIF.</li> </ul>
Disruption During Construction	One respondent to Survey #2 noted concern around possible disruption to surrounding receivers and occupational health and safety considerations during the construction phase of the proposed development.	<p>Any perceived disruption arising during the construction phase of the project will be temporary, and undertaken in accordance with all relevant management plans to minimise impacts to surrounding receivers as far as possible.</p> <p>All construction activities will be carried out in accordance with the relevant consent conditions, including any requirements around neighbour notification and prescribed hours of work.</p> <ul style="list-style-type: none"> <li>• In addition, all construction activities will be carried out in accordance with all relevant health and safety legislation, including all applicable requirements and guidelines as relevant to the proposed activities.</li> </ul>

A community drop-in session was hosted at a local community hall on 27 November 2023. Local community members that had been contacted as part of the newsletter distribution were invited to attend. Several local community groups were also invited to attend, shown in Table 7. No local community members or representatives from local community groups chose to attend.

A submission email address and phone line were established for engagement purposes, however no written submissions or phone calls were received for either round.

### 3.2 Agency engagement

The agencies identified in section 2.4.2 were contacted at various stages through the development of the proposal. Table 10 provides an overview of engagement outcomes from consultation with tier two stakeholders.



## 2. Exert from Novus's RTS (4<sup>th</sup> November 2024, p. 55)

Item	Submission	Issue	Response
		<ul style="list-style-type: none"> <li>Concern with wind environment impact on Albert Lane and Fleet Lane. Comment on installation of wind barriers at ground level.</li> <li>Lack of information on protection of 79 Albert Avenue during construction. Comment on preparing information on construction protection by the proposed development prior to approval, and preparing a dilapidation report prior to the issue of construction certificate.</li> <li>Comment on inclusion of noise and vibration monitors and complaints register as part of CMP during construction.</li> <li>No assessment made of visual privacy impact towards 79 Albert Avenue in accordance with Part 3F of Apartment Design Guide.</li> <li>Comment on acoustic treatments for roof top plants to protect 79 Albert Avenue units from noise impact.</li> <li>Visual impact on western boundary views of 79 Albert Avenue.</li> <li>Shadow diagrams not showing 3pm at winter solace in accordance with the Apartment Design Guide.</li> <li>No stakeholder engagement undertaken with Meriton prior to public exhibition of application.</li> </ul>	
8	Name Withheld #4	<ul style="list-style-type: none"> <li>Heritage impact arising from the demolition of heritage listed 'Old Fire Station'.</li> <li>Adverse traffic impact arising from the operation of the development and cumulative impact of surrounding new development.</li> </ul>	<ul style="list-style-type: none"> <li>Refer to discussion in <b>Section 3.2.1</b> regarding the revised heritage interpretation strategy.</li> <li>As previously confirmed, the Proposal will not result in any adverse traffic impacts as confirmed by the Traffic Report and TfNSW.</li> </ul>
9	Candy Chung	<ul style="list-style-type: none"> <li>Cumulative impact of high density development</li> <li>Heritage impact arising from the demolition of heritage listed 'Old Fire Station'.</li> </ul>	<ul style="list-style-type: none"> <li>The Proposal aligns with the built form outcomes envisaged by the Chatswood CBD Strategy and has been strategically identified as a site capable of accommodating higher-density development.</li> <li>Refer to discussion in <b>Section 3.2.1</b>.</li> </ul>
10	Name Withheld #5	<ul style="list-style-type: none"> <li>Adverse traffic impact (Pacific Highway and Albert Avenue) arising from the operation of the development and cumulative impact of surrounding new development.</li> <li>Heritage impact arising from the demolition of heritage listed 'Old Fire Station'.</li> </ul>	<ul style="list-style-type: none"> <li>Refer to discussion in <b>Section 3.2.1</b> regarding the revised heritage interpretation strategy.</li> <li>As previously confirmed, the Proposal will not result in any adverse traffic impacts as confirmed by the Traffic Report and TfNSW.</li> </ul>
11	Plus Fitness Chatswood	<ul style="list-style-type: none"> <li>Concern with community and stakeholder engagement effectiveness.</li> <li>Negative impact on existing small businesses</li> <li>Risk to health, safety and environmental protection.</li> </ul>	<ul style="list-style-type: none"> <li>Engagement was conducted in accordance with the DPHI's guideline <i>Undertaking Engagement Guidelines for State Significant Projects (October 2022)</i>.</li> <li>The environmental impacts of the Proposal have been assessed in the original EIS and subsequently in this RTS Report and deemed to be acceptable.</li> </ul>
12	Name Withheld #6	<ul style="list-style-type: none"> <li>Adverse traffic impact (Albert Avenue and Albert Lane) arising from the operation of the</li> </ul>	<ul style="list-style-type: none"> <li>As previously confirmed, the Proposal will not result in any adverse traffic impacts as</li> </ul>

### 3. Exert from DHPI's Assessment Report (June 2025, p. 43 - 44)

Issue	Findings and conclusions	Recommended conditions
	<p>The Applicant has advised that the existing signage structure and lights occupy the airspace above 781 Pacific Highway under a license agreement, which expired on 31 December 2024. The Department considers that there are no other arrangements for the signboard which would prevent the proposed redevelopment from taking place.</p>	
<b>Contributions</b>	<p>Council raised concerns regarding infrastructure contributions, specifying intersection upgrades are required in full and should be provided with the development.</p> <p>The Department has reviewed the applicant's Traffic Impact Assessment which concludes that the proposal will generate up to 30 vehicles per hour which can be readily accommodated by the existing road network. No intersection upgrades are required to accommodate the proposal.</p> <p>The development is subject to the following contribution requirements:</p> <ul style="list-style-type: none"> <li>• section 7.11 contributions under Willoughby Local Infrastructure Contributions Policy and Plan 2019; and</li> <li>• Housing Productivity Contribution.</li> </ul> <p>The Department has recommended conditions requiring the payment of contributions prior to the issue of a Construction Certificate for the development.</p>	<p>Conditions A7 &amp; A8 set out the requirements for contributions.</p>
<b>Engagement</b>	<p>The EIS was accompanied by a Stakeholder Engagement Report which describes the engagement undertaken by the Applicant prior to lodging the application.</p> <p>Two public submissions raised concerns regarding a lack of effective engagement with the community and stakeholders.</p> <p>The Department considers that the engagement was conducted in a manner consistent with the relevant</p>	<p>Nil</p>

Issue	Findings and conclusions	Recommended conditions
	guidelines contained in <i>Undertaking Engagement Guidelines for State Significant Projects (October 2022)</i> .	
<b>Impacts to businesses</b>	<p>Two public submissions, (including one from an existing commercial tenant whose business would be demolished), raised concerns regarding impacts to nearby businesses during investigative works, demolition and from construction traffic. One public submission raised concerns regarding loss of revenue.</p> <p>The Department is satisfied that the development can be constructed to appropriate standards, without causing damage to nearby buildings or resulting in any unreasonable amenity impacts. Construction impacts associated with the proposal can be appropriately managed, subject to conditions of consent.</p> <p>The Department notes the development proposes a retail use on the ground floor and considers that the operation of existing businesses on site are subject to existing commercial agreements which fall beyond the scope of this development application.</p> <p>The Department has assessed the merits of the proposal in detail within Section 5 of this report and concludes, subject to conditions the development has acceptable impacts. The Department is therefore satisfied the proposal is unlikely to result in any significant adverse amenity impacts.</p>	Conditions D1-D7, E1 and E8-E15 sets out the requirements for mitigating any construction impacts, including respite periods.

## Appendix E: DHPI Planning Officer Response to Concerns and Mr Hirst's/Novus's Correspondence (Appendix A)

### 1. Email to DHPI's Planning Officer regarding Mr Hirst's Correspondence (Appendix A)

**From:** Aziz Ishak [REDACTED]  
**Sent:** Saturday, 9 November 2024 4:33 PM  
**To:** [REDACTED] <[REDACTED]@dpie.nsw.gov.au>  
**Subject:** Novus on Albert- Response

Hi [REDACTED],

I believe we have not received an adequate or fully truthful response to our submission.

According to DPHI's Guidelines, engagement should prioritise transparency and fairness, with clear and concise information regarding the project and its impacts. Attached is Novus's letter outlining the negative effects on our business, as well as content from Novus's email, which has now been proven inaccurate.

While the environmental impacts of the proposal may have been assessed and deemed acceptable, our primary concern is that the investigative work breached environmental regulations, such as washing drill debris onto public roads. My ongoing concern with these interactions is the pattern of actions not aligning with stated procedures, and I fear this will persist.

Please note that our lease concludes in mid-March 2026. Is Novus required to conduct any further testing within our lease period that could be hazardous or disruptive? If so, Novus should be mandated to wait until the premises are vacated.

I look forward to your response.

Kindest regards,  
 Aziz Ishak

We wanted to provide some additional context for your discussions with your tenant at [763 Pacific Hwy](#), in case they were not aware of any of the below:

1. All adjacent leases in buildings 765-769 Pacific Hwy either have demolition clauses or expire prior to March 2025.
2. We will commence demolition and excavation at the absolute latest from March 2025 for 765-769 Pacific Hwy, regardless of whether the Tenant chooses to accept our proposed amendment to their existing demolition clause as we are within our rights to do so (noting that we are aiming to commence demolition by September 24)
3. We have a design that allows for a basement across 765-769 Pac Hwy i.e., we don't need the land associated with 763 Pac Hwy to construct the basement.
4. The basement will require excavating several floors below ground which will require very large and very noisy machinery.
5. The demolition and excavation works can take anywhere from 3 months to 24 months and the works will be carried out Monday to Friday 7am to 5pm and Saturdays 7am to 12pm (exc public holidays) in accordance with the relevant development application and conditions
6. There will be a constant flow of trucks entering and exiting Avenue and Albert Lane which will involve road closures from time to time.
7. Safety measures such as scaffolding, gantries and pedestrian clearances etc. will be required

Based on the above, we want to ensure that the Tenant is aware of the substantial works that will take place adjacent to their tenancy. As discussed, we are willing to provide compensation should they wish to accept the proposed amendment to their existing lease (amending the demolition clause 8.1: allow it to be exercised from Mar 24 with 6 months' notice), however, the compensation needs to be fair and equitable.

Regards,

Adam Hirst  
 Managing Director & CEO

**NOVUS**

Level 38, Gateway Tower  
 1 Macquarie Place  
 Sydney NSW 2000

Mobile: [REDACTED]

Visit us on LinkedIn  
[novusaus.com](#)



## 2. Email Response from DHPI's Planning Officer

From: [REDACTED]@dpie.nsw.gov.au>  
Date: 11 November 2024 at 1:18:35 pm AEDT  
Subject: RE: Novus on Albert- Response

You don't often get email from [REDACTED]@dpie.nsw.gov.au. [Learn why this is important](#)

### [External Email] Please be cautious

This email was sent from outside the [REDACTED] network. Do not click links or attachments unless you recognise the sender **and** know the content is safe.

Hi Aziz,

Thank you for the chat this morning. I have forwarded your email onto the Applicant. We don't publish correspondence on the website, but I have saved a record of your email.

Kind regards,

[REDACTED]

Senior Planning Officer  
Social & Affordable Assessment  
Department of Planning, Housing and Infrastructure

T [REDACTED] | E [REDACTED]@dpie.nsw.gov.au

[www.dphi.nsw.gov.au](http://www.dphi.nsw.gov.au)

4 Parramatta Square  
12 Darcy Street  
Parramatta NSW 2150





## Appendix I: Landlord Evokes Clause 8.9 of the Lease to Justify Interference of Contract and Offers to Pay for Repairs in Exchange for Access

### 1. Email Response from Landlord to Solicitor Re Letter to Cease and Deceit (Appendix H)

From: [REDACTED]  
 Sent: Thursday, April 4, 2024 8:31 AM  
 To: [REDACTED]  
 Cc: [REDACTED]  
 Subject: RE: [REDACTED] PTY LTD – LEASE OF 763 PACIFIC HIGHWAY CHATSWOOD [REDACTED]

Dear [REDACTED]

We acknowledge receipt of your correspondence dated 25/03/2024.

In accordance with Clause 15.1 of the lease agreement, it is recognized that [REDACTED], your client, is entitled to the quiet enjoyment of the Premises. However, it is imperative to underscore that this entitlement does not extend to the unreasonable refusal of access. Regrettably, the process of obtaining access has proven to be challenging on each occasion it has been necessitated.

Throughout the duration of the lease, [REDACTED] and its representatives have never forced access to inspect the property. Requests for access have consistently been approached with respect and professionalism.

Per Clause 8.9 of the lease agreement, [REDACTED] is obligated to grant [REDACTED] or any authorized party thereof, access to the premises at reasonable intervals for the purpose of conducting environmental assessments. Your client's refusal to permit access for this assessment constitutes a breach of the lease agreement. Furthermore, it is disconcerting that your client denied access despite awareness that the assessment pertains to a Hazmat survey due to suspected hazardous materials within the building. Given [REDACTED] operates as a 24-hour gym with numerous patrons accessing the premises, this refusal may pose potential health and safety risks for your client.

Regarding your client's demand for payment of repair invoices totaling \$2,325.00, [REDACTED] categorically rejects any such claims and disclaims liability thereof.

1. Clause 5.2.1(vi) of the Access & Incentive Deed explicitly stipulates that the Lessor is responsible for repairing the leak at the end of the premises and ensuring the building's watertight integrity. [REDACTED] confirms that the aforementioned leak was rectified, and the end of the premises rendered watertight, at the commencement of the lease in 2021
2. The current leak, reported to [REDACTED] a representative of [REDACTED] on the 7th of March 2024, is situated at the front of the building. Notably, prior to this date, [REDACTED] did not apprise [REDACTED] of any leaks or resultant damages. Accordingly, [REDACTED] took independent action to investigate and rectify the leak, as per their obligations under the lease.
3. Pursuant to Clause 9.2(a) of the lease agreement, [REDACTED] is responsible for servicing the air conditioning equipment at their own expense. To date, [REDACTED] has not received any substantiation from [REDACTED] demonstrating compliance with this obligation.
4. Lastly, Clause 8.1(a) of the lease agreement mandates [REDACTED] to bear the costs of maintaining, replacing, repairing, and ensuring the premises remain in good and substantial condition throughout the lease term.

Putting all of the outstanding issues aside. We are prepared, to pay the \$2,325.00 on a without prejudice basis. As a sign of good faith and a way to the repaid the relationship. However access must be provided – once appropriate notice is given.

I look forward to speaking with you shortly on the matter.

[REDACTED]  
 Director Of Property

Ph: [REDACTED]  
 Mob: [REDACTED]  
 Email: [REDACTED]

## **2. Exert from Lease agreement – Clause 8.9**

### **8.9 Environmental Law**

The Lessee shall:

- (a) subject to any pollution and any environmental hazard or contamination existing prior to the earlier of the date of first occupation by the Lessee and the Commencing Date, maintain the Premises free from pollution and any environmental hazard or contamination;
- (b) maintain procedures which, in the opinion of the Lessor are adequate to monitor its compliance with Environmental Law and Authorisations;
- (c) where the Lessor reasonably suspects that the Lessee is not complying with subclause 8.9(b) above or with any Environmental Law or Authorisation:
  - (i) provide or do everything necessary to facilitate a site assessment of the procedures under subclause 8.9(b) above, and compliance with any Environmental Law or Authorisation by a consultant approved by the Lessor; and
  - (ii) maintain the confidentiality of those assessments;
- (d) permit the Lessor or any person authorised by the Lessor, to enter on the Premises at all reasonable times, on not less than one day's notice (except in the case of emergency), to carry out environmental assessments; and
- (e) remedy any non-compliance with an Environmental Law or Authorisation revealed by any site assessment, environmental assessment or procedure carried out or required under this clause.