



Warringah Council

## NOTICE OF DETERMINATION

**Application Number:** DA2009/0822

### APPLICATION DETAILS

**Applicant Name and Address:** Dee Why RSL Club Ltd  
PO Box 1546  
DEE WHY NSW 2099

**Land to be developed (Address):** Lot 1, DP 706230.  
No. 930-932 Pittwater Road, Dee Why  
(Dee Why RSL Club)

**Proposed Development:** Alterations and additions to an existing club for a new outdoor gaming terrace including reconfiguration of an existing kitchen, toilets and changes to the club entry area

### DETERMINATION - APPROVED

**Made on (Date):** 18 September 2009

**Consent to operate from (Date):** 24 September 2009

**Consent to lapse on (Date):** 24 September 2012

### Details of Conditions

The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.

### NOTE:

If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.

Pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, Council has varied the provisions of Section 95(1) and advise that the consent will lapse 3 years from the date upon which the consent operates.

Section 95A of the Environmental Planning and Assessment Act 1979, allows for an extension of 1 year to the period in which the consent will lapse, except for complying development. Such an application must be made in accordance with Clause 114 of the Environmental Planning and Assessment Regulation 2000.

## GENERAL CONDITIONS

### CONDITIONS THAT IDENTIFY APPROVED PLANS

#### 1. Approved Plans and Supporting Documentation

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Document Reference	Dated	Prepared By
Title DA001/A	30.6.09	<i>Bergstrom Architects</i>
Site DA100/A	30.6.09	<i>Bergstrom Architects</i>
Level 1 DA110/A	30.6.09	<i>Bergstrom Architects</i>
Level 2 DA115/A	30.6.09	<i>Bergstrom Architects</i>
Airlock DA120/A	30.6.09	<i>Bergstrom Architects</i>
Level 2 Detail DA125/A	30.6.09	<i>Bergstrom Architects</i>
Section Elevation DA 200/A	30.6.09	<i>Bergstrom Architects</i>
Street view DA 300/A	30.6.09	<i>Bergstrom Architects</i>
BCA Report J090185-1	24.6.09	<i>Vic Lilli &amp; Partners</i>
Statement of Environmental Effects	Jun 09	<i>Urbis</i>
Noise Assessment 08075-PR/A	Jun 09	<i>Wilkinson Murray</i>
Accessibility Report	24.6.09	<i>Morris Goding Consulting</i>

No building works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Note: Further information on Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

**Reason:** To ensure the work is carried out in accordance with the determination of Council and approved plans.

#### 2. Building Code of Australia

All building work must be carried out in accordance with the provisions of the *Building Code of Australia* (BCA).

**Reason:** Prescribed - Statutory.

### CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

#### 3. External Finishes



External colours and materials are to be retained as shown on the plans DA200/A & DA300/A dated 30.6.09 by *Bergstrom Architects*.

**Reason:** To ensure that the building profile and streetscape remain consistent with the approved plans.

#### **4. Food Premises Construction Requirements**

The design construction and fit out of the kitchen in the Cafe shall comply with Australian Standard 4674-2004 'Design, Construction and fit-out of food premises.

The food premises must comply with the following specific construction requirements:

- Solid walls must be provided in all food handling areas (solid includes brick, cement and foam filled preformed panels);
- Walls in food preparation and wash up areas must be finished with a smooth and impervious surface to a height of at least 2 metres.
- Hand wash basins must be provided with warm water delivered through a common spout with taps that are hands free operation;
- Coving with a radius of 25mm must be provided between all floor and wall joints in food handling areas;
- The open space between the top of the coolroom and the ceiling must be fully enclosed and kept insect and pest proof;
- The coolroom must be able to be opened from the inside with out a key and fitted with an alarm that can only be operated from within the coolroom;
- The doors to the toilet air lock and toilet compartment must be tight fitting and self closing;
- The rear external door must be self closing or be provided with a fly screen that is self closing;
- Where cooking or extensive heating processes or such other processes as may be specified are carried out in food preparation areas, an approved mechanical ventilation system shall be installed and operated in accordance with AS 1668 part 1 & 2.

**Reason:** To ensure compliance with the applicable food legislation and standards.

#### **5. Development/Construction Security Bond**

A bond (determined from cost of works) of \$2000 must be deposited with Council and an inspection fee paid of \$210 prior to the issue of any Construction Certificate. This bond is 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.

**Reason:** To ensure adequate protection to Council infrastructure.

#### **6. Long Service Levy**



Payment of the Long Service Levy is required prior to the release of the Construction Certificate. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% 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.

**Reason:** Prescribed - Statutory.

## **7. Outdoor Area Management Plan**

- An Outdoor Area Management Plan must be prepared and submitted with the Construction Certificate to the Principal Certifying Authority and Council that adequately addresses the following issues:
  - (i) Hours of use of the gaming terrace,
  - (ii) Acceptable behaviour of patrons on terrace,
  - (iii) Management of improper behaviour of patrons on terrace,
  - (iv) Control of Noise and Smoke emissions from terrace,
  - (v) Regular review of the Management Plan and Amendment if required
  - (vi) Contact details, name and phone number, of person to be contacted in case of complaint. Such person and number to be available at all times the hotel is open.

The Outdoor Area Management Plan to be enforced by the RSL at all times and a current copy to be submitted to Council and available to the public upon request from the club.

**Reason:** To protect local amenity

## **8. Garbage and Recycling Facilities**

An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. All internal walls of the garbage storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

**Reason:** To prevent pollution of the environment and to protect the amenity of the area

## **9. Section 94A Contribution**

\$27,580 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

The basis for the contributions is as follows:

### Warringah Section 94A Development Contributions Plan

Contribution based on total development cost of

Contribution - all parts Warringah	Levy Rate	\$ 2,758,027.00 Contribution Payable	Council Code
Total S94A Levy	0.95%	\$26,201	6923
S94A Planning and Administration	0.05%	\$1,379	6924
Total	1.0%	<b>\$27,580</b>	

**Reason:** To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development.

#### 10. High Quality Lighting

External lighting is to be provided for security that complies with the relevant Australian Standard. Details are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Note: The following Australian Standard at the time of determination:

- Australian Standard AS4282 - 1997 Control of the obtrusive effects of outdoor lighting.

**Reason:** To ensure lighting provides security and amenity.

#### 11. Sydney Water Approval

The approved consent plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- ☐ Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- ☐ Guidelines for Building/over Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating

Or telephone 13 20 92.

The Certifying Authority must ensure that a Quick Check agent/ Sydney Water has appropriately stamped the plans prior to the issue of any Construction Certificate.

**Reason:** To ensure compliance with the statutory requirements of Sydney Water.

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

#### 12. Building Works



No building works shall be carried out until a Construction Certificate has been issued.

**Reason:** To ensure compliance with statutory provisions.

### **13. Notice of Commencement**

At least 2 days prior to work commencing on site Council must be informed, by the submission of a Notice of Commencement in Accordance with Section 81A of the Environmental Planning and Assessment Act 1979 of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence.

**Reason:** Legislative requirement for the naming of the PCA.

### **14. Special Permits**

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property pursuant to Section 138 of the Roads Act 1993. A minimum of forty-eight (48) hours notice is required for all permits except work zones, which may require additional assessment time. (See below)

- ☐ Permit for on-street mobile plant

Restrictions apply to the hours of operation and the area of operation for on street mobile plant equipment (for example cranes, concrete pumps, cherry pickers). Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

- ☐ Hoarding Permit

Permits are required to erect Class A, Class B and Class C hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

- ☐ Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given.

- ☐ Kerbside restrictions, work zones

Existing kerbside restrictions apply. An application must be made to Council for the alteration of existing kerbside restrictions or the provision of a construction zone.

**Reason:** Proper management of public land.

**CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

#### **4. Demolition**

Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

**Reason:** To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage. **[F6]**

#### **15. Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

**Reason:** Public Safety.

#### **16. Prohibition on Use of Pavements**

No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without prior Council Approval.

**Reason:** To ensure public safety and amenity on public land.

#### **17. Construction Hours**

Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 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).

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such permit must be obtained and the appropriate fee paid at least two (2) clear working days in advance of each relevant date. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk.

**Note:** Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.

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

#### **18. Health and Safety**

The work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements.



**Reason:** To ensure the health and safety of the community and workers on the site.

#### **19. Plans on Site**

A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Certifying Authority.

**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.

#### **20. Removal of Extra Fabric**

Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification given to Council. No work is to resume until the written approval of Council is obtained. Failure to comply with the provisions of this condition will result in the Council taking further action including legal proceedings if necessary.

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

#### **21. Dust emission and air quality**

Materials must not be burnt on site.

Vehicles entering and leaving the site with soil or fill material must be covered.

Dust suppression measures must be carried out to minimise wind-borne emissions to adjacent private and public land.

**Reason:** To ensure residential amenity is maintained in the immediate *vicinity*.

### **CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

#### **22. Council Environmental Health Officer Certification of Food Premises**

Prior to release of the Occupation Certificate the construction and fit out of the food premises is to be inspected and provided with a Compliance Certificate by Warringah Council's Environmental Health Officer. To arrange a mutual inspection time please contact Council's Environmental Health Officer on 9942 2111 during business hours.

**Reason:** To ensure compliance with the Food Safety Standard 3.2.3 and AS4674

#### **23. Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be compiled which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be





prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

**Reason:** Statutory requirement under Part 9 Division 4 & 5 of the *Environmental Planning and Assessment Regulation 2000*.

#### **24. Occupation Certificate Required**

An Interim / Final Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building.

Note: In issuing an Interim / Final Occupation Certificate the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.

**Reason:** To ensure compliance with the provisions of the *Environmental Planning and Assessment Act*.

#### **25. Noise**

A certificate from an appropriately qualified Acoustic Engineer is to be submitted prior to the issue of an Interim/Final Occupation Certificate indicating that the development and all sound producing plant, equipment, machinery or fittings provide compliance with the *Casino, Liquor and Gaming Control Authority* criteria and incorporate all noise mitigation measures required by the *Noise Assessment Report No.08075PR/A* prepared by *Wilkinson Murray* dated June 2009.

**Reason:** Acoustic amenity.

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

#### **26. Acoustic Amenity**

At all times, the operation of the outdoor terrace and outdoor gaming area of the Club is to be in accordance with the recommendations contained in Noise Assessment Report No.08075PR/A prepared by *Wilkinson Murray* dated June 2009.

Noise from the combined operation of all mechanical plant and equipment shall not generate noise levels that exceed 5dB(A) above the ambient background noise level measured at the nearest residential property boundary when measured in accordance with the *Environment Protection Authority's NSW Industrial Noise Policy*.

The 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 at adjacent residential site boundaries when measured in accordance with the *Environment Protection Authority's Industrial Noise Policy*.

**Reason:** Maintain reasonable acoustic amenity to surrounding residences at night time.

#### **27. Impact on Amenity of Surrounding Area**

The implementation and intensity of this development shall not adversely affect the amenity of the neighbourhood housing by reason of excessive levels of illumination

(internal or external) or solar glare arising from the building materials utilised in any construction processes or fit out. In this regard baffles/shields shall be provided on any external lights associated with the additions to ensure no unreasonable impact upon surrounding residential premises.

**Reason:** To ensure that the amenity of the surrounding locality is not adversely affected by the nature of the approved activity.

## **28. Amplified Music**

The PA system, poker machines and any television sets are to be controlled to minimise volume levels and noise intrusion to residences. No speakers are to be aimed towards residences or reflective surfaces.

**Reason:** To ensure the use of the premises does not interfere with the acoustic amenity of the residents within the immediate locality

## **29. Use of the Outdoor Gaming Terrace**

The operating hours for the terrace is to be trailed for a period of twelve (12) months from the date of occupation. A Section 96 application will be required to be submitted to Council prior to the expiration of the 12 month trail period detailing noise issues, noise monitoring by management and any complaints raised from nearby residents. Operational period is required to demonstrate proven compliance and satisfactory performance should the club seek to have the operating hours retained.

**Reason:** To ensure the use of the premises does not interfere with the acoustic amenity of the residents within the immediate locality.

## **30. Amenity**

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

**Reason:** To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the *Protection of the Environment Operations Act 1997*.

## **31. Delivery Hours**

Deliveries, loading or unloading associated with the development are to take place between the following hours

Monday to Saturday – 7am to 8pm  
Sunday – 10am to 4pm

**Reason:** To protect the acoustic amenity of surrounding properties

## **32. Duty to Prevent the Spread of smoke**

The hotel must take all reasonable steps to prevent smoke caused by smoking in the smoking areas of the premises from penetrating to the smoke free area.



**Reason:** to ensure compliance with the *Smoke Free Environment Act 2000*.

### 33. Operating Hours

Operating hours for the Outdoor Gaming area are limited to the following hours:

Monday - Thursday	10am – 4am (the following day)
Friday	10am – 6am (the following day)
Saturday	9am – 6am (the following day)
Sunday	9am – 4am (the following day)

Warringah Council may seek the Dee Why RSL Club to vary these hours by written notice if reasonable cause arises from disturbance to adjacent residential amenity or public safety risks from inadequate management.

**Reason:** To protect the acoustic amenity of surrounding properties

### 34. Annual Fire Safety Statement for the Building

In accordance with the EPA Act & Regulation the owner of a building is to provide Council with an Annual Fire Safety Statement for the building.

**Reason:** To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants.

### Right to Review by the Council

You may request Council review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979 if it is NOT integrated or designated development. Any request to review the application must be made and determined within 12 months from the date of determination.

**NOTE:** *A fee will apply for any request to review the determination.*

### Right of Appeal

If you are dissatisfied with this decision Section 97 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

**Signed** on behalf of the consent authority

Signature  
Name \_\_\_\_\_  
Alex Keller, Senior Development Assessment Officer

Date 18 September 2009