



Warringah Council

NOTICE OF DETERMINATION

Application Number: DA2007/0873

APPLICATION DETAILS

Applicant Name and Address: Sanctum Design Consultants Pty Ltd
PO Box 277
Neutral Bay NSW 2089

Land to be developed (Address): Lot B DP 329073 (No.80) Undercliff Road Freshwater

Proposed Development: Demolition of the existing brick storage shed and construction of a kiosk for use as a Café-Restaurant

DETERMINATION - APPROVED

Made on (Date): 15 July 2008

Consent to operate from (Date): 15 July 2008

Consent to lapse on (Date): 15 July 2011

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.



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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:

Drawing Number	Title	Dated	Prepared By
A02	Site Plan & Area Calculations	09-07-08	Sanctum Design Consultants
A03	Floor Plan	29-08-07	Sanctum Design Consultants
A04	North East & North West Elevations	29-08-07	Sanctum Design Consultants
A05	North East & North West Elevations	29-08-07	Sanctum Design Consultants
A06	Section A-A	29-08-07	Sanctum Design Consultants
A07	North East Elevation	29-08-07	Sanctum Design Consultants
A08	North West & South East Elevations	09-07-08	Sanctum Design Consultants

No construction 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.

Reason: Prescribed - Statutory.

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

3. Bond for Construction, Excavation and Associated Works

A bond of \$1,000.00 shall be deposited with Council prior to the issue of the Construction Certificate as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.



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

4. 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.*

5. Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the issue of the Construction Certificate.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Reason: *To ensure the protection of existing built public infrastructure.*

6. Roofing Materials - Reflectivity

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. The metal roof shall not be of light colours such as off white, cream, silver or light grey colours. Details are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development.*

7. Schedule of Materials & Finishes

A schedule of the materials, finishes and colors used in the proposed works is to be prepared, consistent with the objective of reducing reflectivity and compatibility with the existing heritage building. Details are to be submitted to the Council for approval prior to the issue of the Construction Certificate.



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Reason: To ensure the works do not cause excessive glare or reflectivity nuisance and adequate relationship with other structures on the site.

8. Design for Access & Mobility

The development must be designed to comply with the requirements of the Disability Discrimination Act 1992 and Australian Standard AS1428.2-1992 Design for Access and Mobility - Enhanced and additional requirements - Buildings and facilities. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure equitable access to members of the community to all public facilities.

9. Location of hand washing facilities

A hand wash basin shall be provided in addition to the double bowl sink shown on the plans. The hand washing facility shall be located and installed so it is not obstructed, is at bench height either permanently fixed to the wall, to a supporting frame (freestanding hand basins) or set in a bench top; and accessible and no further than 5m from any place where food handlers are handling open food.

Hand basins shall be provided with a towel dispenser that dispenses a single-use paper or single-use cloth towel or automatically dispenses a single-use portion of paper or cloth towel or other means of effectively drying hands and arms, which prevents the transfer of pathogenic micro-organisms to the hands or arms. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure compliance with Australian Standard AS4674 – 2004 – “Design, Construction and fit-out of food premises and to ensure personal hygiene is able to be maintained .

10. 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.

11. Design, Construction and Fit Out

The design, construction and fit out of the kitchen shall comply with all relevant Australian Standards. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.



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

- Australian Standard AS 4674 - 2004 Construction and fit out of food premises

Reason: *To ensure compliance with the Australian Food Standards Code.*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. Construction Work within Public Open Space

The written consent of Council must be obtained to enter or undertake any work within adjoining public lands prior to the commencement of works.

Reason: *Protection of existing public infrastructure.*

13. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: *To ensure the community is protected from the cost of any claim for damages arising from works on public land.*

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



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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.

15. 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.

16. Site Sign

(1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited;
- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

(2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

(3) This condition does not apply to building works being carried out inside an existing building.

Reason: Statutory requirement.



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17. Licensing requirements for removal of bonded asbestos

Anyone who removes, repairs or disturbs bonded asbestos must hold a bonded or a friable asbestos licence, or a demolition licence in accordance with Workcover requirements and the Occupational Health and Safety Act 2000.

Licensed contractors must notify WorkCover NSW of work done in relation to bonded asbestos material having a total surface area of more than the maximum allowable area specified in Clause 317 (3) of the Occupational Health and Safety Regulation 2001.

The notification must be given at least 7 days prior to the start of work and should provide the following information:

Details about the removal contractor and nominated competent person and independent supervisor (building owner's representative)
Type, quantity and location of bonded asbestos material
Work method statement of removal procedures to be carried out
Commencement and completion dates
Disposal arrangements

Details demonstrating compliance with these requirements are to be submitted to the Certifying Authority prior to the commencement of works.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Applicant's Cost of Work on Council Property

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

Reason: To ensure the proper management of public land.

19. 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.

20. Installation and Maintenance of Sediment Control [Note to Officer: For Small Developments]

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All techniques shall remain in proper operation until all development activities have been completed and the site fully

stabilised.

Reason: *To protect the environment from the effects of sedimentation and erosion from development sites.*

21. 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.*

22. Plant & Equipment Kept Within Site

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This condition shall be complied with during demolition and building work.

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

23. 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.*

24. Protection of Public Places

- (1) If the work involved in the erection or demolition of a building:
 - (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - (b) building involves the enclosure of a public place,
a hoarding and site fencing must be erected between the work site and the public place.
- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- (5) No access across public reserves or parks is permitted.



Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained.

Reason: *To ensure public safety and the proper management of public land.*

25. 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.*

26. Demolition Works

All Demolition Work shall be carried out in a safe manner by trained personnel under the management of a licensed demolisher who is registered with the WorkCover Authority, in accordance with all relevant Acts, Regulations and Australian Standards.

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

Australian Standard AS2601.2001 - Demolition of Structures

Reason: *To ensure a satisfactory standard of demolition works.*

27. Excavation / Backfilling

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

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



28. 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.

29. Noise and Vibration

Noise emissions and vibration must be minimised where possible and work is to be carried out in accordance with Department of Environment and Climate Change (formerly) Environment Protection Authority guidelines for noise emissions from construction/demolition works and must also comply with the provisions of the Protection of the Environment Operations Act 1997. This Condition must be complied with during demolition and building work.

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

30. Removal of Friable Asbestos

Anyone who removes, repairs or disturbs friable asbestos material must hold a current friable asbestos removal licence.

Prior to the commencement of work a site-specific permit approving each friable asbestos project must be obtained from WorkCover.

Reason: To comply with WorkCover requirements.

31. Removing, Handling and Disposing of Asbestos

Any works involving asbestos based products in relation to removal, handling and disposing of material must be undertaken in accordance with all relevant Acts, Regulations, Guides and Codes.

Note: The following standards applied at the time of determination:

Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

32. Removal of Hazardous Material

Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority and the provisions of all relevant Acts, Regulations and Guidelines.

Note: The following standards applied at the time of determination:

Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).



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Reason: To ensure that the land is suitable for the proposed development and that contaminating material required to be removed from the property is removed in accordance with the prescribed manner.

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

33. 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.

34. 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.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

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

35. Notification of the Food Premises

The proprietor of a food business must notify the NSW Food Authority of the details of the business prior to the issue of the Interim/Final Occupation Certificate. Notification may be done either online at www.foodnotify.nsw.gov.au <<http://www.foodnotify.nsw.gov.au/>> or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.

The proprietor of a food business must also inform an Environmental Health Officer of Council in writing of their notification number and business details prior to trading.

Reason: To ensure compliance with the Australian Food Standards Code.



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

36. Hours of Operation

The hours of operation of the kiosk are restricted to between 7.00am to 5.00pm, seven (7) days a week.

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

37. Patron Numbers

This consent does not authorise or approve an increase in patron numbers from the existing licensing.

Reason: To ensure compliance with original consent and requirements under the Building Code of Australia.

38. Place of Public Entertainment

This approval does not authorise musical or other forms of entertainment. A separate application for a Place of Public Entertainment License shall be submitted to Council for approval to conduct such activities or events.

Reason: To ensure compliance with Section 68, Part A3 approvals, Local Government Act 1993.

39. No Cooking on the Premises

No cooking of food requiring the use of a stove, oven, hot plate, grill, fryers or the like is permitted on the premises.

Reason: The application has provided no provision for mechanical ventilation.

40. Signs/Goods in the Public Way

No signs or goods are to be placed on the footway or roadway adjacent to the property.

Reason: To ensure pedestrian safety.

41. 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 ensure the acoustic amenity of surrounding properties.

42. Delivery Hours

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.



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Reason: *To ensure the acoustic amenity of surrounding properties.*

43. Noise Impact On Surrounding Area

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 along the site boundaries when measured in accordance with the Environment Protection Authority's Industrial Noise Policy.

Reason: *To ensure compliance with acceptable levels of noise established under best practice guidelines.*

44. Separate Development Application for Signs

A separate Development Application for any proposed signs (other than exempt and complying signs under Council's exempt and complying controls) must be submitted for the approval of Council prior to the erection or display of any such signs.

Reason: *Control of signage.*

Review of Determination

You may request Council review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979. The review must be determined within 12 months.

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 Rik Hart
 General Manager – Warringah Council

Date 15 July 2008