

16 February 2024



Choulartons Australia Pty Ltd
10 Chiltern Road
INGLESIDE NSW 2101

Dear Sir/Madam

Application Number: Mod2023/0476
Address: Lot 52 DP 1237461 , 80 - 82 Mona Vale Road, MONA VALE NSW 2103
Lot 51 DP 1237461 , 84 Mona Vale Road, MONA VALE NSW 2103
Lot 27 DP 5055 , 22 Jubilee Avenue, WARRIEWOOD NSW 2102
Proposed Development: Modification of Development Consent DA2019/0123 granted for Use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market.

Please find attached the Notice of Determination for the above mentioned Application.

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at www.northernbeaches.nsw.gov.au

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to council@northernbeaches.nsw.gov.au

Regards,



Steven Findlay
Manager Development Assessments

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application Number:	Mod2023/0476 PAN-366639
Applicant:	Choulartons Australia Pty Ltd 10 Chiltern Road INGLESIDE NSW 2101
Property:	Lot 52 DP 1237461 80 - 82 Mona Vale Road MONA VALE NSW 2103 Lot 51 DP 1237461 84 Mona Vale Road MONA VALE NSW 2103 Lot 27 DP 5055 22 Jubilee Avenue WARRIEWOOD NSW 2102
Description of Development:	Modification of Development Consent DA2019/0123 granted for Use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market.
Determination:	Approved Consent Authority: Northern Beaches Local Planning Panel
Date of Determination:	14/02/2024
Date from which the consent operates:	14/02/2024

Under Section 4.55 (2) Environmental Impact of the EP&A Act, notice is given that the above application to modify the original application has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

Reasons for approval

The development proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Community views

The application was notified in accordance with Council's Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the development satisfies the Objects of the Environmental Planning and Assessment Act and will not result in unacceptable environmental impacts.

Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal


You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Signed On behalf of the Consent Authority


Name Steven Findlay, Manager Development Assessments

Date 14/02/2024

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-366639 Mod2023/0476	The date of this notice of determination	Modification of the period for which this consent operates. Additional Conditions: <ul style="list-style-type: none"> • Condition 1B Traffic Management • Condition 13 Food Safety Modified Conditions: <ul style="list-style-type: none"> • Condition 4 Amendment to Plan of Management • Condition 8 Log Book • Condition 10 Consent Expiry Date
Mod2021/0047	14 April 2021	Modification of the period for which this consent operates. Modified Condition: <ul style="list-style-type: none"> • Condition 10 Consent Expiry Date (previously titled 'Trial Period')
Mod2020/0175	29 July 2020	Modification of the period for which this consent operates and hours of operation. Additional Conditions: <ul style="list-style-type: none"> • Condition 1A Modification of Consent - Approved Plans and Supporting Documentation • Condition 11 Operation • Condition 12 Traffic Warden(s) Modified Condition: <ul style="list-style-type: none"> • Condition 4 Amendment to Plan of Management • Condition 6 Noise Minimisation • Condition 7 Hours of Operation • Condition 10 Consent Expiry Date (previously titled 'Trial Period')

Modified conditions

A. Add Condition 1B Traffic Management to read as follows:

The applicant is to prepare a Traffic Management Plan (TMP) for the control of traffic and pedestrian movements to and from the markets on days that the markets operate. The TMP to be submitted to and approved by Council's Traffic Engineer within 12 weeks of the date of this consent.

The traffic controls outlined in the TMP must be implemented by the applicant between the hours of 7:15am and 2:45pm on any day that the markets operate to ensure safety and minimise the effect of the markets on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and the RMS' Manual – "Traffic Control at Work Sites

The TMP must include, as a minimum:

- Measures to manage traffic movements into and out of the RSL driveways used by stallholders and patrons of the markets. Such traffic control to be conducted by certified traffic controllers.
- Details of the times for bump in and bump out and any procedures or strategies to minimise congestion during these times.
- The proposed method of access to and egress from the site for stallholder's vehicles, including the size of vehicles and access routes to and from the site and Mona Vale Road and the location and type of traffic control measures, including any staggering of stallholder arrivals, for the purpose of minimising traffic congestion in the area.
- Measures to redirect traffic as required to reduce queueing and delays in Foley Street, Warriewood Road, Jubilee Avenue and Vineyard Street.
- Measures to physically prevent illegal parking activity on nature strips.
- Traffic Guidance Scheme(s) prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Traffic Management Plan is submitted.

A copy of the approved TMP must be kept on-site at all times while the markets are being carried out.

Reason: To ensure pedestrian safety and continued efficient network operation.

B. Modify Condition 4 Amendment to Plan of Management to read as follows (underlined for emphasis of change):

The submitted Operational Management Plan is to be amended to include:

- Hours of Operation, being:
 - Access for stall traders: 7:30am-2:30pm; and
 - Trading hours: 8:30am-1:00pm.
- Methods for restricting access to the site prior to 7.30am and in relation to trading hours;
- Complaints Register: A complaints register is to be kept up to date at all times, logging complaints received, and action taken;
- Complaints Contact: A contact person is to be nominated in the Operational Management Plan along with a phone number;
- Stall Numbers: Market events are not to exceed 100 stalls at any time; and

- Market events must not exceed 42 days within a 12-month period in accordance with Clause 2.8 of the Pittwater LEP 2014, or not more than the maximum number of occurrences for temporary uses set by any future LEP, whichever applies at the time.

Reason: To ensure appropriate amenity, complaints resolution and consistency with the consent.

C. Modify Condition 8 Log Book to read as follows:

A log book detailing each market event is to be kept up to date for inspection by Council at any time. The markets are not to occur on more than 42 days within a 12-month period in accordance with Clause 2.8 of the Pittwater LEP 2014, or not more than the maximum number of occurrences for temporary uses set by any future LEP, whichever applies at the time.

Reason: To ensure consistency with Clause 2.8 temporary Use of Land of the Pittwater LEP 2014.

D. Modify Condition 10 Consent Expiry Date to read as follows:

This consent is extended for a further 5 years until and including 2 September 2029.

Reason: To limit the activity to a temporary use of the land.

E. Add Condition 13 Food Safety to read as follows:

All food stalls preparing and/or serving unpackaged ready to eat food must:

- Comply with the Guidelines for Food Businesses at Temporary Events written by the NSW Food Authority dated July 2020, and
- Have warm running water readily available onsite within 5 metres of food handling.

Reason: To ensure compliance with food safety.

Important Information

This letter should therefore be read in conjunction with DA2019/0123 dated 19 June 2019, Mod2020/0175 dated 29 July 2020, and Mod2021/0047 dated 14 April 2021.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Council means Northern Beaches Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Northern Beaches Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to: the collection of stormwater, the reuse of stormwater, the detention of stormwater, the controlled release of stormwater, and connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Sydney North Planning Panel.