

## Environmental Health Referral Response - commercial use

<b>Application Number:</b>	DA2019/0681
<b>To:</b>	David Auster
<b>Land to be developed (Address):</b>	Lot A DP 301530 , 10 Howard Avenue DEE WHY NSW 2099

### Reasons for referral

This application seeks consent for one or more of the following:

- Food premises, or
- Backpackers/Boarding house, or
- Mortuary, or
- Skin penetration, accupuncture, tattoo, beauty salon, or
- Public pool

And as such, Council's Environmental Health and Protection officers are required to consider the likely impacts.

### Officer comments

#### General Comments

The applicant advises the internal fit out will be by way of private Certifier, under Complying Development and therefore has not submitted details on the internal fit out. Whether the Mechanical Ventilation is being replaced or modified is not clear but assumed not to be changed. The new operator is again a charcoal cooking type food business. Risk of smoke and odour issues if not compliant can be significant. Again, we are assuming no changes to the current system.

However attention is drawn to SEPP requirements where DA is required for BBQ or Charcoal cooking if this system is to be changed:

Subdivision 4 Mechanical ventilation systems

#### 5.7 Specified complying development

The construction, installation or alteration of a mechanical ventilation system on a building that is used for any purpose (other than a dwelling house) is development specified for this code if it is not carried out in a heritage conservation area or a draft heritage conservation area.

#### 5.8 Development standards

The standards specified for that development are that the development must:

- (a) be located at least 3.5m behind the building line from any lot boundary, and
- (b) be designed so as not to emit noise exceeding an LAeq of 5 dB(A) above background noise when measured at any lot boundary, and
- (c) be located not more than 1m above the ridge of a pitched roof or 3m above

a flat roof, and

**(d) not relate to the cooking of food at the premises by barbecue or charcoal methods, and**

(e) if it is located on bush fire prone land—be constructed or installed so that any opening is sealed against the entry of embers.

Residential premises are located nearby and charcoal cooking if not suitably dealt with can lead to complaints.

This issue can be dealt with by way of requiring additional information, or by conditions. Conditions have been added to avoid delay to the applicant.

### **Recommendation**

APPROVAL - subject to conditions

### **Recommended Environmental Health and Protection Conditions:**

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

##### **Kitchen Design, construction and fit out of food premises**

The construction fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises'. Prior to any Construction Certificate (CC) being issued certification is to be provided by a suitably qualified person that the fit-out design complies with the above requirement.

Reason: To ensure that the kitchen complies with the design requirements.

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

##### **Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

##### **Prior to occupation -Charcoal cooking**

If the current charcoal cooking system, including exhaust and/or odour control is modified or replaced the applicant shall engage the services of a suitably qualified mechanical ventilation engineer to ensure the system at discharge is able to eliminate smoke and odour from escaping to the exterior of the premises and ensure no nuisance is created to any neighboring residents or businesses. Details are to be provided to the Certifier and to Council for its records prior to the business opening for trading.

Reason: To ensure that cooking smoke and odour is managed to eliminate any nuisance to neighbouring residents and businesses.