

14 December 2005

Ornis Pty Ltd
Att: Harry Anasson
10 Howard Avenue
DEE WHY 2099

DA 2003/1086/MOD1
CA (PAS)

Dear Sir / Madam,

**RE: 10 HOWARD AVENUE, DEE WHY
MODIFICATION OF DEVELOPMENT CONSENT NO. 2003/1086**

We are writing to advise that the request to modify the above-mentioned Development Consent has been approved on 6 December 2005 and determined as follows:

(a) Modification to Condition No. 1

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 plan numbered SK01 (Amendment A), dated 15 July 2005, in relation to the number and layout of indoor seating only, and by other conditions of consent:

Drawing Number	Date
177P	Dated 05/08/03, submitted 25 August 2003
177P1 to 177P8	Dated 8/8/03, submitted 25 August 2003

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 [A1(1)]*

(b) Modification to Condition No. 17 to read as follows:

“17. Restriction of Seating

The seating capacity of the refreshment room shall not exceed 20 persons.

Reason: *Compliance with Consent and Building Code of Australia.*

- (c) Modification to Condition No. 18 to read as follows:

“18. Hours of operation

The operating hours of the premises shall be confined to 7:00am to 10:00pm. No sales of merchandise, preparation of food or service to patrons shall take place outside the nominated hours and patrons shall vacate the premises within 30 minutes of closing time. The cooking of chickens must not commence prior to 9.00am.

***Reason:** To protect amenity of surrounding development.”*

- (d) The addition of the following new Conditions No.31-37:

31. Restrictions on Deliveries, Loading and Unloading Hours

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10:00pm and 9:00am on any day.

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

32. Restrictions on Wastes and Recyclables Collection Hours

Any waste and recyclable materials associated with the premises must not be collected between the hours of 10:00pm and 9:00am on any day.

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

33. Noise Impact on Surrounding Area

The use of the premises shall not cause a sound level in excess of 5dB(A) at any time above the background noise level at any point along the site boundaries.

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

34. Acoustic Assessment

An acoustic assessment report prepared by an appropriately qualified person is to be submitted to Council prior to extended hours of operation, demonstrating that any noise generated by all mechanical plant and equipment throughout the proposed trading hours do not exceed 5dB(A) above the ambient background noise level measured at the nearest residential property boundary, where the method of measurement is to be in accordance with the Environment Protection Authority's *Industrial Noise Policy*.

***Reason:** To ensure compliance with the conditions of consent.*

35. Mechanical Exhaust System

All cooking equipment shall be connected to an approved mechanical exhaust system and be operated in an appropriate way so as to prevent / minimise the creation of odours, fumes and/or excessive noise that may adversely impact on the amenity, or interfere unreasonably with the comfort of occupants in adjoining buildings and premises.

A certificate from an appropriately qualified person is to be submitted to Council prior to extended hours of operation, detailing the connection of all cooking equipment to the smokehog currently installed in the premises.

***Reason:** To maintain the environmental amenity of surrounding properties.*

36. Waste Storage Facilities

Adequate storage facilities for wastes and recyclables are to be provided on-site to support the operation of the subject premises. Under no circumstances is the storage of wastes or recyclables, whether permanent or temporary, in a public place or an adjoining property permitted under this development consent.

***Reason:** To ensure adequate waste storage facilities are provided on-site.*

37. Toilet Facilities in Accordance with BCA

Permanent toilet facilities are to be provided within the development site in accordance with the provisions of the Building Code of Australia, in relation to the maximum proposed number of patrons, being twenty (20).

***Reason:** To ensure appropriate toilet facilities to service the number of patrons of the development. [C69]*

This letter should therefore be read in conjunction with Development Consent DA 2003/1086 dated 13 October 2003. Please find attached a consolidated set of conditions incorporating the modification of consent.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

Section 97(1) of the Environmental Planning and Assessment Act confers on the applicant who is not satisfied with the determination of the Consent Authority has a right of appeal to the Land and Environment Court exercisable within 12 months of receipt of this notice.

You may request the Council to review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979. Any request to review the application must be within 12 months after the date of determination shown on this notice.

Should you have any further enquiries in connection with this matter, please contact the referred to Enquiry Officer.

The appropriately stamped plan/s to which the modification of consent has now been granted is available for collection at Councils Customer Service Centre. Please note that if you nominate Council to assess your Construction Certificate, associated forms and information regarding what to submit is also enclosed in the determination kit.

It is Council's policy not to forward these by mail to ensure safe receipt of these important documents. When collecting your Modified Consent and accompanying documents, please bring this letter with you for identification purposes. The Customer Service Centre is open between 8.30am and 5pm Monday to Friday (excluding Public Holidays).

Work must also be in accordance with the relevant MODIFIED conditions of the Development Consent.

Should you require any further information on this matter, please contact **Simon Ip** between the hours of 9.30am and 10.30am or 3.00pm and 4.00pm, Monday to Friday, on telephone number **9942 2111**, or at any time on facsimile number **9971 4522**.

Should you wish to view details of this development application, please feel free to visit our DA's Online System at www.warringah.nsw.gov.au.

Yours faithfully,

Peter Robinson
Manager Major Developments
Planning and Assessment Services