

STATEMENT OF ENVIRONMENTAL EFFECTS

Change of Use to a
Café (Tea Room)

18 Myoora Road

Terry Hills

Suite 1, 9 Narabang Way Belrose NSW 2085

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18 Myoora Road, Terry Hills

Prepared under instructions from

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ANNEXURE 1: PREVIOUS OCCUPATION CERTIFICATE

1 Introduction

This statement has been prepared as part of the supporting documentation for a Development Application in relation to the use of 2 existing structures located at 18 Myoora Road, Terry Hills.

The 2 existing structures proposed or the tea room are currently unoccupied. We note that the structure (identified as TH1 on the plans) was previously approved, and had an occupation certificate, for its use as a café in association with previous café Buddha Belly Cafe in the nursery located on the adjoining site at 327 Mona Vale Road. A copy of that occupation certificate is attached as annexure 1.

In addition to the Statement of Environmental Effects, the following also accompanies the application:

- Site Plan prepared by HAS Architects;
- Floorplan prepared by HAS Architects;
- Bushfire Hazard Assessment by Bushfire Planning & Design;
- BCA Report MSA

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979;
- Warringah Local Environmental Plan 2011 and
- Warringah Development Control Plan 2011

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The application has considered and satisfies the various relevant planning controls applicable to the proposed use and associated works.
- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.

2 Site Analysis

2.1 Site Description and Location

The site is identified as Lot 2 DP 1133931, 18 Myoora Road, Terry Hills. The site has mixed occupancy consisting of office buildings and a residence. A location map is included in **Figure 1**.



Figure 1: Site Location Map (Source: Six Maps)

The development in the local area contains a mixture of uses such as landscaping material supply business, bus depot and hotel/motel accommodation.

The land is identified as bushfire prone land as mapped within the Warringah LEP.

3 Description of Development

3.1 Details of the Proposed Development

The Development Application comprises the use of 2 existing pavilions located on site for primarily a tea room (café).

The existing structures are in a Balinese style and the proposed tea room aims to reflect the existing tranquil setting. The existing kitchen is for food preparation and not for use as a commercial kitchen. All food served will be pre-prepared with the kitchen being used to prepare the food for service.

There will be a maximum 5 persons working at any one time.

The site has approximately 71 shared parking spaces that service the site as well as an informal parking area.

The application does not propose any external modifications to the existing building. Some minor works are proposed to meet the BCA standards as outlined in the BCA report. These details can be provided at construction certificate stage.

The proposed hours of operation are as follows:

7am – 10pm Monday to Thursday, and Sunday

7am – 12pm Friday and Saturday

Any replacement business identification signage will be subject to a separate Development Application or will be provided in accordance with State Environmental Planning Policy Exempt and Complying Development advertising signage provisions.

A Bushfire Hazard Assessment was conducted on the site by Bushfire Planning & Design.

All waste will be stored within the premises, with a private contractor to provide commercial waste collection as required.

4 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential environmental impacts are discussed below.

4.1 Warringah Local Environmental Plan 2011

4.1.1 Zoning and Permissibility

The subject site is Zoned RU4 Primary Production Small Lots. There are additional permitted uses regarding this particular location pursuant to clause 2.5, which states:

Development on particular land that is described or referred to in Schedule 1 may be carried out:

(a) with development consent, or

(b) if the Schedule so provides—without development consent,

in accordance with the conditions (if any) specified in that Schedule in relation to that development.

The proposed development falls under clause 18 in Schedule 1 which states:

18 Use of certain land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills

(1) This clause applies to land in the vicinity of Mona Vale and Moora Roads, Terrey Hills, shown as "Area 18" on the Additional Permitted Uses Map.

(2) Development for the purposes of educational establishments, garden centres, hospitals, hotel or motel accommodation, places of public worship, recreation areas, recreation facilities (indoor), recreation facilities (outdoor), registered clubs and restaurants or cafes is permitted with consent.

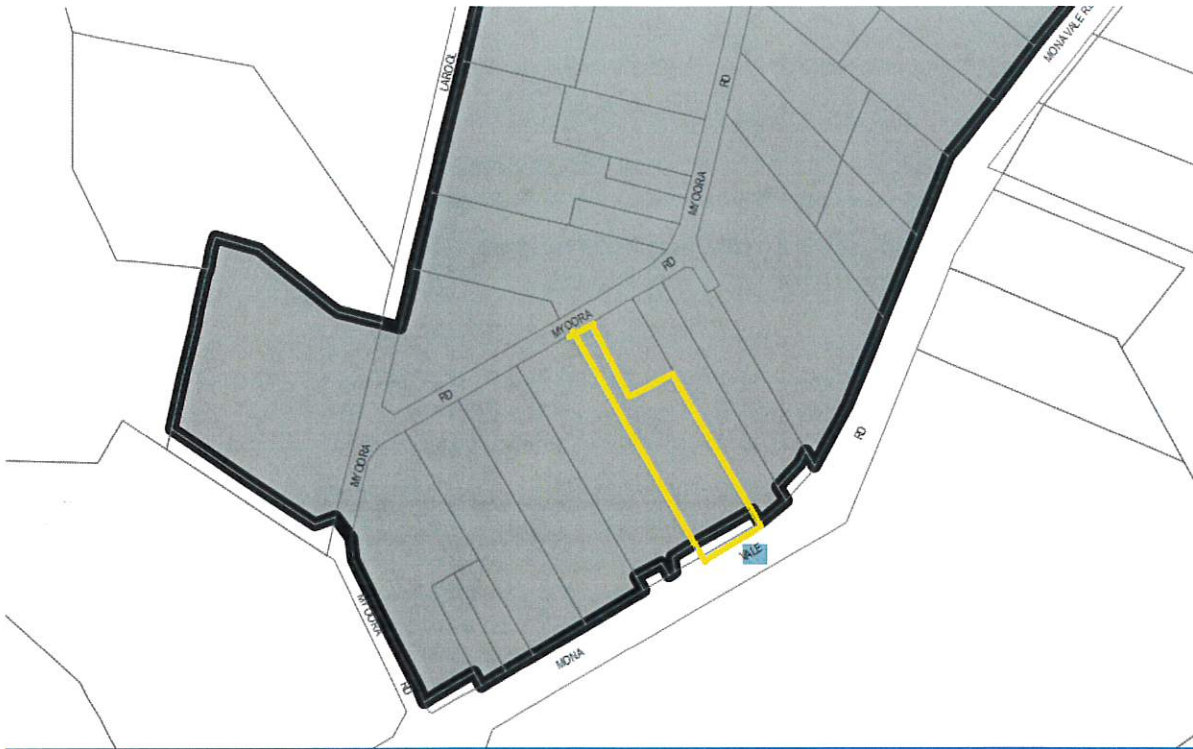


Figure 2: Additional Permitted Uses Map – subject site highlighted (Source: Warringah LEP)

The proposed use is for a tea room which would be considered a café use as defined within the WLEP.

In this regard, the proposed use is a permissible use as outlined in Schedule 1 of the WLEP.

4.1.2 Development on Sloping Land

Pursuant to Clause 6.4 of the LEP, the site is identified as Land Slip Risk Area A. The application comprises a change of use. No excavation works are proposed as part of this application. On this basis, the proposed works will have negligible impact on the stability of the land or surrounding land.

4.1.3 Bushfire Prone Land

The site is mapped as being bushfire prone in the WLEP and a bushfire hazard assessment was conducted by Bushfire Planning & Design. This report accompanies this application.

The report concludes that the proposed change of use is commercial in nature and the National Construction Code does not have bushfire construction provisions for building classifications 5-8. The general fire safety provisions are deemed to be adequate.

4.2 Warringah Development Control Plan 2011

The relevant provisions of the Warringah Development Control Plan 2011 in relation the proposed works are detailed as follows:

4.2.1 Built Form Considerations

The proposal does not involve any changes to the three dimensional form, massing or external appearance of the existing building or car parking circumstance.

Some minor works are required to meet the BCA requirements, as detailed in the BCA report. These details can be provided at the construction certificate stage.

4.2.2 Provision of Car Parking

Appendix 1 of the DCP requires restaurant premises to provide the following carparking rates:

15 spaces per 100 m2 GFA, or

1 space per 3 seats.

The café has the capacity to seat approximately 88 patrons as demonstrated on the floor plan. This would equate to a car parking requirement of 29.3 spaces.

The site has 71 available car parking spaces with 2 accessible spaces identified which is compliant with the carparking rates within the DCP.

We note that 5 spaces were allocated to the approved health studio (DA2017/0973) which is no longer operating on the site.

4.2.3 Waste (garbage) storage and collection

The existing waste storage and collection methods for the site will be maintained. A private waste contractor will be used when required.

4.2.4 Noise and Residential Amenity

It is considered that the proposal will not give rise to any unacceptable noise affection given the proposed use, location within an area with a mix of industrial, commercial, and garden supply businesses and is appropriately distanced from residential areas.

There have been approvals for restaurants in the immediate vicinity which have similar approved hours of operation. Buddha Belly Restaurant on the adjoining property (327 Mona Vale Road - DA2014/0661) is opening hours approved till 10pm from Monday to Thursday, and Sundays, and till 11pm on Friday and Saturday evenings. DA2009/1618 at No.321 Mona Vale Road permits operation of the approved restaurant between 8.00am to midnight, 7 days a week.

4.3 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as Amended

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended). Guidelines (in *italic*) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

(i) The provision of any Planning Instrument

The proposed alterations and additions are permissible and consistent with the intent of the Warringah Councils Local Environmental Plan and Development Control Plan as they are reasonably applied.

(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

N/A

(iii) Any development control plan

Warringah DCP applies

(iiia) Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and

N/A

(iv) The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

N/A

(v) Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)

N/A

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,

Context and Setting

i. What is the relationship to the region and local context in terms of:

- The scenic qualities and features of the landscape
- The character and amenity of the locality and streetscape
- The scale, bulk, height, mass, form, character, density and design of development in the locality
- The previous and existing land uses and activities in the locality

The proposed use of the existing structures are entirely commensurate with that established by adjoining development and development generally within the sites visual catchment with no adverse amenity impacts in terms of visual and acoustic privacy.

ii. What are the potential impacts on adjacent properties in terms of:

- Relationship and compatibility of adjacent land uses?
- sunlight access (overshadowing)
- visual and acoustic privacy
- views and vistas
- edge conditions such as boundary treatments and fencing

These matters have been discussed in detail earlier in this report. There will be no adverse impacts on the amenity of adjoining properties.

Access, transport and traffic:

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- Travel Demand
- dependency on motor vehicles
- traffic generation and the capacity of the local and arterial road network
- public transport availability and use (including freight rail where relevant)
- conflicts within and between transport modes
- Traffic management schemes
- Vehicular parking spaces

The proposal provides for 71 off-street car spaces including 2 accessible spaces.

Public Domain

The proposed development will have no adverse impact on the public domain.

Utilities

Existing utility services will continue to service the dwelling house.

Flora and Fauna

The proposal does not require the removal of any flora or fauna.

Waste Collection

Normal waste collection will apply for site in regard to the proposed use. Commercial waste collection will be utilised when required.

Natural hazards

Bushfire impact assessment accompanies this application.

Economic Impact in the locality

The proposed development will not have any significant impact on economic factors within the area notwithstanding that it will generate additional employment opportunities.

Site Design and Internal Design

i) *Is the development design sensitive to environmental considerations and site attributes including:*

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the general principles, desired future character and built form controls.

ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*

- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

The proposed development can comply with the provisions of the Building Code of Australia as detailed in the BCA report provided.

Construction

- i) *What would be the impacts of construction activities in terms of:*
 - *The environmental planning issues listed above*
 - *Site safety*

Normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

(c) The suitability of the site for the development

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The site is located in an established mixed use area. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause excessive or unmanageable levels of transport demand.

The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed use.

(d) Any submissions received in accordance with this act or regulations

It is envisaged that Council will appropriately consider any submissions received during the notification period.

(e) The public interest

The proposed works are permissible and consistent with the intent of the LEP and DCP controls as they are reasonably applied to the proposed alterations and additions. The development would not be contrary to the public interest.

5 Conclusion

Having assessed the detail of the application against the applicable statutory considerations we have formed the considered opinion that the proposed use is permissible with consent as an additional permissible use as outlined in Schedule 1 of the WLEP. It is consistent with the zone objectives and statutory considerations applicable to a cafe on this particular site.

The proposed use will not give rise to any adverse environmental or residential amenity consequences. Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and assessment Act, 1979 as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

W
WARRINGAH
COUNCIL

28 August 2015



S K Jain
Po Box Q1492
QVB SYDNEY NSW 1230

Dear Sir/Madam,

Application No. PCA2012/1015

Development Consent No: DA2002/0420

Construction Certificate No: CC2002/0420

Address: 18 Myoora Road TERREY HILLS NSW 2084

I refer to your Final or Interim Occupation Certificate application dated 30/11/2012.

An inspection was carried out on 12/02/2013 for the above property and following receipt of relevant certifications on 28 July 2015 we are now in a position to issue your certificate.

Warringah Council, pursuant to Sections 109C(1)(c) 109H of the Environmental Planning and Assessment Act, hereby **CONSENTS** to the issue of a Final Occupation Certificate for the property described above. We are therefore pleased to advise your Occupation Certificate is now issued and your copy is enclosed for your records.

If you require any additional information about this matter, please contact the undersigned, weekdays on 9942 2111 or via council@warringah.nsw.gov.au

Yours faithfully,

Officer

Philip Hoffman BPB Accreditation No. 1249
Senior Specialist Building Surveyor



Final Occupation Certificate

Issued under Sections 109C(1)(c) and 109H of the Environmental Planning and
Assessment Act 1979

Final Occupation Certificate No: PCA2012/1015

For a 18 Myoora Road TERREY HILLS NSW 2084

Development Consent No: DA2002/0420

Construction Certificate: CC2002/0420

Land to which this certificate applies: 18 Myoora Road TERREY HILLS NSW

Address: 18 Myoora Road TERREY HILLS NSW

**Description of the building or part of the building: Fitout/ works to Cafe /Pavilion
Structure**

Classification of the building under the Building Code of Australia: 6

Applicant: S K Jain

Warringah Council certifies that:

- It has been appointed as the principal certifying authority under S109E.
- A development consent/complying development certificate is in force with respect to the building.
- A construction certificate has been issued with respect to the plans and specifications for the building.
- The building is suitable for occupation or use in accordance with its classification under the Building Code of Australia.
- Where required, a report from the Commissioner of Fire Brigades has been considered.

**Note: This Final Occupation Certificate supersedes any Interim Occupation
Certificate issued previously.**

DATED: 28 August 2015




**Philip Hoffman BPB Accreditation No. 1249
Senior Specialist Building Surveyor**