

27 March 2025

Symaco Pty Ltd , The Trustee For Cirillo Planning Trust
22 - 23 The Strand
DEE WHY NSW 2099

Dear Sir/Madam

Application Number: DA2024/0946
Address: Lot B DP 329073 , 80 Undercliff Road, FRESHWATER NSW 2096
Proposed Development: Use of the premises as a restaurant

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,



Rodney Piggott
Manager Development Assessments

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application Number:	DA2024/0946 PAN-452276
Applicant:	Symaco Pty Ltd 22 - 23 The Strand DEE WHY NSW 2099 The Trustee For Cirillo Planning Trust Suite 195 20-40 Meagher Street CHIPPENDALE NSW 2008
Property:	Lot B DP 329073 80 Undercliff Road FRESHWATER NSW 2096
Description of Development:	Use of the premises as a restaurant
Determination:	Approved Consent Authority: Northern Beaches Local Planning Panel
Date of Determination:	19/03/2025
Date from which the consent operates:	27/03/2025
Date on which the consent lapses:	27/03/2030

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

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 lodged to and determined by the consent authority within 6 months from the date that the original determination was registered on the NSW Planning Portal. Prospective applicants for a Review of Determination are encouraged to lodge a review application with Council as soon as possible, to enable a full review and determination.

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

Rodney Piggott, Manager Development Assessments

Date

19/03/2025

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
L01	B	Site Plan	McIntosh and Phelps	11 October 2022
L02	B	Upper Ground Floor Plan	McIntosh and Phelps	11 October 2022
L03	B	Upper Ground Floor Plan 2	McIntosh and Phelps	11 October 2022

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Revised Review of Accessibility Matters	220643.01	City Plan	23 October 2024
Traffic and Parking Assessment	23148	TTPP	26 March 2024
Plan of Management	V.2	Planning Lab	12 July 2024
Waste Management Plan	-	Giovanni Cirillo	-
Acoustic Assessment	R5	PWNA	7 March 2025
Acoustic Assessment Memorandum	-	PWNA	7 March 2025

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Northern Beaches Police - Licensing	N/A	29 October 2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a **restaurant or cafe**, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—

- (a) an artisan food and drink industry, or
- (b) farm gate premises.

Up to a maximum of 20 single bookings are permitted per calendar year (January to December), on a pro rata basis for 2025 as the approved function use will commence after January 2025.

A log book detailing each single booking is to be kept up to date for inspection by Council at any time.

The maximum capacity for the restaurant use is 130 patrons.

The maximum capacity for a single booking is 100 patrons.

The maximum number of patrons utilising the pavilion shall not exceed 50 at any time.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. No Approval for Land Use

No approval is granted under this consent for the use of the premises as a function centre, as defined by the Dictionary of the Warringah Local Environmental Plan 2011:

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception

centres, but does not include an entertainment facility.

Reason: To ensure compliance with the terms of this consent.

5. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.

- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

6. **Extent of Consent**

No approval is granted or implied under this Development Consent for any physical works beyond the fire and accessibility upgrades noted on the plans and review of accessibility matters (prepared by City Plan, dated 11 July 2024) and revised review of accessibility matters prepared by City Plan, dated 23 October 2024).

The approved upgrade works are limited to the following:

- Bathroom alterations
- Equitable access to and within the site, excluding the Undercliff Road access path.

Approval is given for the use of the site only.

Reason: To ensure compliance with the terms of this consent.

7. **General Requirements**

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 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).

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a

safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

8. **Approval of works**

No approval is granted under this Development Consent for any works outside of the subject site.

Reason: To ensure compliance with the terms of this consent.

FEES / CHARGES / CONTRIBUTIONS

9. Security Bond

A bond (determined from cost of works) of \$5,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

10. Access Path - Undercliff Road

No approval is given for the proposed pedestrian path to Undercliff Road, identified in the Accessibility Review report (Prepared by City Plan, dated 11 July 2024).

Details demonstrating compliance are to be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: Owners consent has not been provided by Council

11. National Construction Code (BCA) upgrade requirements and Fire Safety upgrade

The National Construction Code works and fire upgrading measures to upgrade the building as detailed and recommended in the National Construction Code (NCC) Report prepared by City Plan, dated 15 March 2024, Report Ref No. 220643, are to be considered as part of the assessment of the Construction Certificate.

Details demonstrating compliance are to be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, Access & Fire Safety for building occupant health & safety.

12. Amendments to the approved plans

The approved plans are to be amended to show the proposed Pavillion door with materials and finishes that complement the heritage significance of the site.

Details demonstrating compliance are to be submitted to Council's Heritage Advisor prior to the

issue of the Construction Certificate.

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

13. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

14. Preparation of a Heritage Asset Action Plan

A Heritage Asset Action Plan (HAAP) is to be prepared for the site in accordance with Heritage NSW *Statement of Best Practice for Heritage Asset Action Plans* and be provided to Council's Heritage Advisor for approval prior to the issuing of a Construction Certificate.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: Ongoing protection of the heritage item

15. Compliance with standards (Demolition):

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

Reason: To ensure the development is constructed in accordance with appropriate standards.

16. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

17. Surrender of Consent

The applicant shall surrender to Council Development Consents No: 1980/311 & 1983/177, in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To prevent inconsistencies between consents applying to the site (ref 4.17 & 4.63 EPAA & cl68 EPA Regulation 2021).

17a. Accessibility Solution

Access to and within the internal restaurant from the north-eastern entry gate is to be provided for Persons with a Disability and is to comply with the Building Code of Australia and AS 1428.1.

Any work to ensure adequate accessibility is to maintain the significance of, and to complement the heritage significance of the subject site.

The applicant is to submit amended plans and relevant documentation to the satisfaction of Executive Manager Development Assessment prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

DURING BUILDING WORK

18. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

19. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared 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 Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, 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 Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

20. Acoustic Design Recommendations

Prior to the issuing of any Occupation Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that design recommendations within the acoustic report and operational conditions have been implemented / incorporated into the design of the premises.

Reason: To prevent noise nuisance by using mitigation measures in design.

21. Waste Management Confirmation

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

22. Amenity

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.

23. Undercliff Entrance

The existing entranceway/gate fronting Undercliff Road is not to be used by restaurant patrons for access, and/or for deliveries and services.

Reason: In order to maintain privacy to the adjoining / nearby property.

24. Noise management

The restaurant is to be operated in accordance with the following:

- Any amplified music must be limited to, and restricted during the hours of 10:00am and 10:00pm. Noise levels to be limited to 90 dBA Sound Power Level (or equal to 73 dBA @ 3m) when measured as a sound pressure level.
- No outdoor amplified music.
- Outdoor background and/or acoustic (non-amplified) music is limited to 10pm.
- Background music is assumed to be 65 dBA for dining areas, all measured as a sound pressure level.
- All doors and windows are to remain shut after 10:00pm and not opened before 7:00am and anytime amplified music is used. Low level background music is permitted to be played with windows open.
- Removal of glass or waste should be done internally and must not be externally of the premises after 8:00pm and before 7:00am.
- Signs must be displayed at all exits reminding patrons to be mindful of noise when leaving the premise.
- A revised Plan of Management (PoM) is to be prepared based on the following conditioned amendments:

- Amended Operating Hours
- Amplified and non-amplified and background music requirements
- Opening of windows
- A contact number must be displayed for the purposes of receiving any complaints if they arrive.
- A copy of PoM to be available on restaurant's webpage.

The PoM should be sent to Council and approved prior to operating under this consent. The PoM is to reviewed regularly to ensure any required updated proposed for approval by Council.

Reason: To maintain reasonable levels of amenity to residential neighbouring properties.

25. Implementation of Heritage Asset Action Plan

The approved Heritage Asset Action Plan, including maintenance works and policies for the site, must be complied with at all times.

Reason: Ongoing protection of the heritage item

26. Food Preparation

Food is to be prepared in the existing approved restaurant kitchen and kept under temperature control and protected from contamination during delivery/service to the Pavilion or any other area.

Reason: To ensure food safety standards are maintained at all times

27. Hours of operation – reviewable condition

This condition is imposed under s4.17(10B) of the Environmental Planning and Assessment Act to enable Council to review the performance of the approved development with respect to the hours of operation. This review will take place with 14 days notice within the first 12 months of operations, or with 14 days notice at any time following the first 12 months of operations, where Council is in receipt of complaints related to hours of operation and amenity impacts.

The hours of operation are to be restricted to:

- Sunday: 10:00am – 10:00pm
- Monday to Thursday: 10:00am - 11:00pm
- Friday and Saturday - 10:00am - 12:00am
- New Years Eve – 10:00am – 01:00am

Should upon a review of this condition and following a proper investigation Council finds that limiting the hours of operation is the most efficient and effective means of reducing amenity impacts then the hours of operation will be required, at the expiration of 14 days written notice, to revert to the following:

Restaurant trading hours

Restaurant trading hours including any take away meals service shall be confined to:

- Sunday to Thursday: 10:00am - 10:00pm
- Friday and Saturday - 10:00am - 12:00am
- New Years Eve – 10:00am – 01:00am

28. 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 protect the acoustic amenity of surrounding properties.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation.

Some of these additional obligations are set out in the Conditions of development consent: advisory notes, which has been uploaded to the NSW Planning Portal as a separate document. The consent should be read together with the advisory notes to ensure the development is carried out lawfully.

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. Some of these additional obligations are set out in the Conditions of development consent: advisory notes, which has been uploaded to the NSW Planning Portal as a separate document. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.