

CONSENT NO: N0103/16
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:
Angela Muller - Merivale Group
C/- Cit Plan Services
120 Sussex Street,
Sydney NSW 2000

Being the applicant in respect of Development Application No N0103/16

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application No **N0103/16** for:

Alterations and additions to an existing hotel, including internal building refurbishments

At: 1 KALINYA STREET, NEWPORT NSW 2106 (Lot 1 DP 72587)

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

- **Architectural drawings 3886-01, prepared by Speedy Ventilation Pty Ltd, dated 19/03/2016**
- **Architectural drawings DA D01, CDCF01, prepared by Akin Creative, dated 18/03/2016**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent 06-May-2016

Mark Ferguson
GENERAL MANAGER
Per:

Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. A sign must be erected in a prominent position onsite only showing:
 - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - c) that unauthorised entry to the work site is prohibited.The sign must 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.
3. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i) The name and licence number of the principal contractor, and
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
 - b) in the case of work to be done by an owner-builder:
 - i) The name of the owner-builder, and
 - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information
4. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
5. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
6. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. **The pizza ovens and mechanical exhausts must be installed and operated in accordance with the requirements stated within the letter provided by Floth, dated 05/05/2016**
2. The construction, fit out and finishing of the kitchen and food handling and storage areas must comply with; Australian Standard 4674-2004 Design, construction and fit-out of food premises, and The Food Safety Standard 3.2.3 (as part of the Food Standards Code) required by the Food Regulation 2010.
3. Walls in and adjoining food handling areas must be of solid masonry construction (no voids or cavities) and finished as specified in table 3.2 of AS 4674-2004 Design, construction and Fit-out of food premises.
4. Floors shall be:
 - a) appropriate for the area;
 - b) able to be effectively cleaned;
 - c) laid in accordance with the relevant Standards (see AS 3958.1 for ceramic tiles) so that there is no likelihood of pooling water and harbourage of pests
5. Covering shall be a minimum of 25mm radius at the floor wall joint, this will increase to a minimum of 50mm when splayed at 45 degrees. No "feather edge skirting" is permitted. Where vinyl or similar sheeting is installed and the sheeting is turned up to form a cove, a solid preformed coving fillet shall be used to support the sheeting.
6. Cupboards, cabinets and counter construction must be free of voids, cracks and crevices and designed so they can be easily cleaned and not give harbourage for vermin. They should be fitted a minimum of 150mm above the floor level or situated on a solid plinth a minimum of 75mm in height and meet the same specifications as the floor and be coved.
7. Fixtures, fittings and equipment shall be designed and constructed in accordance with the requirements given in Table 4.3 and 4.4 of AS 4674-2004 Design, construction and fit-out of food premises.
8. The ceiling over all food handling areas (including over the servery and bar) must be non-performed and finished free of open joints, cracks and crevices. The ceiling shall be finished with a sealant that is of light colour, washable and an impervious material. Drop panel type ceilings are not appropriate for these areas.
9. Hand washbasins must be provided in the food servery/preparation area, preferably installed with hands free taps. A hand wash basin should ideally be located within 5 metres of any food handling and be easily accessible and usable.
10. Hand washbasins must be provided with:
 - a) an adequate supply of potable warm running water delivered through a single spout;
 - b) a supply of liquid soap; and
 - c) single use hand towel
11. The premises shall be provided with equipment for cleaning and sanitizing as specified within Tables 4.1 and 4.2 of AS 4674-2004 Design, construction and fit-out of food premises.
12. Dishwasher and glass washers that are used for sanitizing food contact surfaces and eating and drinking utensils must comply with AS 2945.
13. Grease arrestors and access openings to the sanitary drainage must not be located within any food preparation and/or handling area.
14. All service pipes, conducts and electrical wiring shall be either concealed in floors, walls, ceiling or plinths or be fixed on brackets so as to provide at least 25mm clearance between the pipe and the adjacent vertical surface and 100mm between the pipe and the adjacent horizontal surface.

15. All shelving, cupboards, doors and the like must be impervious and easy to clean on all exposed surfaces and as far as practicable and constructed and installed to prevent vermin harbourage.
16. A commercial kitchen must be provided with a kitchen exhaust hood complying with AS/NZS 1668.1:1998 (fire and smoke control in multi-compartment buildings) and AS 1668.2-2012 (mechanical ventilation for acceptance indoor-air quality) where -
 - a) any cooking apparatus has:
 - i) a total maximum electrical power input exceeding 8 kW; or
 - ii) a total gas power input exceeding 29 MJ/h; or
 - b) the total maximum power input to more than one apparatus exceeds -
 - i) 0.5 kW electrical power; or
 - ii) 1.8 LJ gas,
 Per m² of floor area of the room or enclosure.
17. No odour nuisance, to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedures carried out at the premises.
18. No noise nuisance shall be caused through the operation of the business or any plant or equipment at the premises. Noise generated from the premises must not exceed the limits as specified in the NSW Industrial Noise Policy.
19. Structural requirements for the Garbage and Recycling room/s include:
 - a) A room/enclosure is to be dedicated for the storage of garbage and recyclables.
 - b) The room/enclosure used for the storage and washing down of garbage/recycling receptacles shall be constructed of solid material (brick, concrete, concrete blocks, structural fibrous cement or other similar homogeneous material) so as to prevent the formation of cavities which become possible harbourages for insects and vermin. Framing in timber is not permitted. The walls of the room shall be cement rendered and steel trowelled to a smooth, even surface. The floor shall be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room/enclosure.
 - c) Stormwaters are to be prevented from entering the garbage/recycling enclosure/room.
 - d) The garbage/recycling enclosure/room shall be vented to the external air by natural or artificial means. The installation and operation of the mechanical ventilation system shall comply with AS 1668, Parts 1 & 2.
 - e) Hot and cold water hose cocks shall be located within the garbage/recycling enclosure/room or in close proximity.
 - f) Clear access to the garbage/recycling enclosure/room must be available for the garbage service provider.
 - g) Domestic garbage/recycling enclosure/rooms shall be separated from commercial premises garbage/recycling rooms.
20. Provision must be made for storage of garbage containers and recyclable materials in an external area of the premises or in a room specifically for that purpose.

External garbage areas must be provided with a hose tap connected to the water supply, be paved with an impervious material, be graded and drained to sewer and be designed and constructed so they are easy to clean.

Roomed garbage areas must have impervious floors that are coved at the floor/wall intersection and be graded and drained to the sewage system. Walls of roomed garbage areas must be smoothed and impervious. The room must be ventilated and proofed against pests and be provided with a hose tap connected to the water supply.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

4. Construction works approved by this consent must not commence until:
 - a) Construction Certificate has been issued by a Principal Certifying Authority
 - b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
5. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

Note: This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

2. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- c) Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

- 3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
- 4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
- 5. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
- 6. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations
- 7. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.

All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.

The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.

- 8. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.
- 9. No skip bins or materials are to be stored on Council's Road Reserve.
- 10. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - a) The builder's name, builder's telephone contact number both during work hours and after hours.
 - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d) That no skip bins or materials are to be stored on Council's Road Reserve.
 - e) That the contact number for Pittwater Council for permits is 9970 1111.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
3. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
4.
 - a) The Certifying Authority is to submit to Council the completed and signed Food Premises Occupation Certificate Fit-Out Form, this form is available at http://www.pittwater.nsw.gov.au/business/commerce_and_industry_premises/information_for_food_premises.
 - b) Council's Environmental Health Officer is to be contacted (phone: 9970 1111) to make arrangements for an inspection of the premises for verification of compliance with the form. A minimum 48 hours notice is required for inspection.
 - c) Council is to forward written advice of the result of the inspection in order to confirm that there is no objection to the issuing of the Occupation Certificate.
5. Documentation supplied by Sydney Water regarding evidence of the trade waste agreement must be provided to the certifying authority prior to the issue of the Occupation Certificate.
6. Documentation supplied by a practicing mechanical engineer certifying that all mechanical exhaust ventilation systems, as installed, complies with AS/NZS 1668.1:1998 (Fire and smoke control in multi-compartment buildings) and 1668.2-2012 (Mechanical ventilation for acceptable indoor-air quality), must be provided to the certifying authority prior to the issue of the Occupation Certificate.
7. The following actions and works are to be undertaken where a mechanical ventilation system is installed:
 - a) Obtain the services of a suitably qualified and experienced acoustic consultant to prepare a report which details the noise level of the mechanical ventilation system when in operation at the food premises located at 1 Kalinya Street, Newport. The acoustic report is to incorporate a noise management plan which advises feasible and reasonable controls that are to be undertaken to minimise the noise level from the mechanical ventilation system at 1 Kalinya Street, Newport. At a minimum, the noise from the mechanical ventilation system must not exceed the acceptable noise levels specified in Table 2.1 of the EPA New South Wales Industrial Noise Policy, January 2000.

Specifically, the acoustic monitoring report is to include reference to the following items:

- i) The type of receiver being classified as a “residence”.
- ii) The Indicative Noise Amenity Area is to be classified as “Urban”.
- iii) The noise measurements are to be obtained at the most affected point on or within the nearest residential boundary.
- iv) The type of noise instrumentation used to conduct the monitoring.
- v) The weather instrumentation used.
- vi) The weather conditions during noise monitoring.
- vii) The time(s) and duration(s) of monitoring, including dates. Note: monitoring is to be undertaken during the day, evening and night at the times of proposed operation.
- viii) The results of noise monitoring at each monitoring location, including a comparison with the acceptable noise levels specified in Table 2.1 of the EPA New South Wales Industrial Noise Policy, January 2000.
- ix) A statement outlining compliance or non-compliance with the acceptable noise level limit.

G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
9. The proposed food business requires a Food Safety Supervisor.
 - a) Ensure that, you have a staff member who is a suitably qualified Food Safety Supervisor.
 - b) The Food Safety Supervisor certificate (or a copy) must be valid and remain onsite at all times.

- c) A food business must notify the NSW Food Authority of the appointed Food Safety Supervisor with seven days of commencement of trading. The food business owner can notify online at the Authority's website: www.foodauthority.nsw.gov.au,
- d) Should the current Food Safety Supervisor leave or cease to act in that role at the food premise, the business owner must appoint a new Food Safety Supervisor within 30 operational days (ie days that food is processed and sold) of that FSS leaving, or ceasing to act in that role. The business owner must then notify the NSW Food Authority of the new FSS' details within seven days of their appointment.

For further information regarding the Food Safety Supervisor training and certification please refer to the NSW Food Authority's website:

<http://www.foodauthority.nsw.gov.au/industry/fss-food-safety-supervisors/>