



Mr Arthur Stamos
429-431 Miller Street
Cammeray NSW 2062

D255/22
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION - Approval**

Development Application Number:	255/22
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Land to which this applies:	431 Miller Street, Cammeray Lot No.: 3, DP: 10462 & Lot No.: 1, DP 1047285
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Applicant:	Global VIP Events Pty Ltd
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Proposal:	Extend existing trading hours under DA33/2017 to also include Saturday and Sunday from 11.30 am to 6.00 pm
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Determination of Development Application:	Subject to the provisions of Section 4.17 of <i>the Environmental Planning and Assessment Act 1979</i> , approval has been granted subject to conditions in the notice of determination.
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Date of Determination:	12 October 2022
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Reasons for Approval

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

The proposed additional weekend daytime hours of operation are supported as it would encourage activity and vibrancy within the Cammeray Centre and is unlikely to have any adverse impact on the surrounding residential area given the nature of the premises, location of the restaurant, background noise levels and higher acceptable noise thresholds during daytime hours, particularly on weekends. There are no changes proposed to the capacity or operation of the restaurant.

The application seeks to address the atypical existing hours of operation which excluded daytime weekend trade at the time the original consent was granted in the late 1980s.

On balance, the application is considered reasonable and is recommended for approval.

Consent to operate from: 12 October 2022

Consent will lapse on: 12 October 2027

Period of Consent

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite 12 October 2027.

How community views were taken into account:

The development application was notified in accordance with Council's Community Engagement Protocol from 16 September 2022 until 30 September 2022. One submission was received which was addressed in the assessment report and appropriate conditions are in place under the previous consent to generally address these issues.

Review of determination and right of appeal:

Within six months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Endorsed for and on behalf of North Sydney Council

12 October 2022

DATE



Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)

(i) **Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979* ("the Act") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the Regulation") such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the Act.

(ii) **Definitions**

Unless specified otherwise, words have the same meaning as defined by the Act, the Regulation and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

NCC means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Council.

Court means the Land and Environment Court.

Local Native Plants means species of native plant endemic to North Sydney LGA.

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act 1989*.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

Principal Contractor for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

Professional Engineer has the same meaning as in the *NCC*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

NSLEP 2013 means *North Sydney Local Environmental Plan 2013*

NSDCP 2013 means *North Sydney Development Control Plan 2013*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

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A. Conditions that Identify Approved Plans

Terms of the Consent

- A1. This development consent provides additional hours of operation for the development permitted by development consent DA31/2017. Consent to operate the restaurant remains under development consent DA31/2017 and therefore, all conditions of that consent must be complied with at all times, with the exception of **Condition I1 Hours of Operation**, which is to read in conjunction with Condition I1 of this consent.

(Reason: To provide clarity regarding the terms of the consent)

I. Ongoing/Operational Conditions

Hours of Operation

- I1. In addition to the hours of operation permitted under **Condition I1 Hours of Operation** of DA31/2017, the premises may operate during the following hours and in accordance with all other conditions of consent:

Indoors and Outdoor Dining Area

- 11.30 am to 6.00 pm (Saturday and Sunday)

All other requirements of **Condition I1 Hours of Operation** of DA31/2017 are to be adhered to.

(Reason: To ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)