



YUAUS Enterprise Pty Ltd
19 Melnotte Avenue
ROSEVILLE NSW 2069

D279/23
KRR (CPE)

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

Development Application Number:	279/23
Land to which this applies:	Shop 5, 141 Walker Street, North Sydney Lot No.: 1 DP: 738392
Applicant:	YUAUS Enterprise Pty Ltd
Proposal:	Extend trading hours to existing retail food and drink premises to permit dinner trading as well as weekend trading with on-premises licence with proposed trading time, Monday to Sunday 7.00 am to 9.00 pm
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.
Date of Determination:	13 February 2024
Reasons for Approval	<p>The development application has been assessed against the North Sydney Local Environmental Plan 2013, the North Sydney Development Control Plan 2013 and SEPP 64 (Advertising and Signage) and generally found to be acceptable.</p> <p>The proposed signage is considered acceptable given the commercial nature of the premises. It is further considered that the signage will not unduly harm the streetscape and visual amenities of the site and surrounds. Therefore, the development application is felt to have an appropriate streetscape appearance and function.</p> <p>Having regard to the provisions of Section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved.</p>

Consent to operate from: 13 February 2024

Consent will lapse on: 13 February 2029

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 13 February 2029.

How community views were taken into account:

Community views have been considered as the development application was notified for two weeks and Council received no submissions. Nevertheless, council has stipulated appropriate conditions of consent, to minimise impacts of the development while in construction and operation.

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.

Plans endorsed by the consent authority - please refer to condition A1.

Endorsed for and on behalf of North Sydney Council

13 February 2024

DATE



Signature on behalf of consent authority
DAVID HOY
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 2021 (“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

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Drawing No.	Title	Drawn by	Dated	Received
Page 11 of the SEE and POM	Ground Floor Plan and mezzanine Floor plan Shop 5, 141 Walker Street, North Sydney	CBRE/TRANPLAN	July 2023	12/09/2023
	Plan of Management	Tranplan	July 2023	12/09/2023

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all plans endorsed with Council's approval stamp, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifier.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the Principal Certifier upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

I. Ongoing/Operational Conditions

Hours of Operation

- I1. The hours of operation are restricted to:

Trading hours from 7.00 am to 9.00 pm Monday to Sunday, including Public Holidays.

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

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

Use of Premises

12. The use of the premises shall be for the purposes of food and drink premises. NO consent is granted or may be inferred for use of the premises for the purposes of a general bar. The sale of liquor shall remain on premises only and must remain ancillary to the primary use of the premises as a restaurant/café.

(Reason: To clarify the scope of this consent)

Plan of Management (Licensed Premises)

13. The licensed premises must be managed and operate in accordance with the Plan of Management referred to in **Condition A1** of this consent. The Plan of Management is to be updated to reflect the requirements of this consent, including but not limited to the approved limits on patron numbers, approved hours of operation and provision for a minimum number of qualified security staff to be employed at the premises.

In the event of any inconsistency between the Plan of Management and the conditions of this consent or relevant legislation, then the stricter condition or regulation will prevail.

(Reason: Safety, security and amenity)

Cleanliness and Maintenance of Food Preparation Areas

14. To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all building work in connection with the occupation or use of the premises for the preparation and storage of food shall be designed and carried out in accordance with the requirements of:

- a) the Food Act 2003;
- b) the Food Regulation;
- c) the relevant Australian Standards;
- d) Council's Food Premises Code;
- e) Sydney Water Corporation - Trade Waste Section;
- f) the Protection of the Environment Operations Act and associated Regulations; and
- g) the National Construction Code.

(Reason: To ensure compliance with acceptable standards for the construction of food premises established under environmental health and safety legislation)

Noise from Plant and Equipment

15. The use of all plant and equipment installed on the premises must not:
- (a) Contribute an LAeq (15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 shall be applied.
 - (b) Cause "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Trade Waste

16. Trade waste water must be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source Control Branch.

(Reason: To ensure compliance with Sydney Water’s requirements and protect the environment)

Noise and Vibration Impact

17. The ongoing use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

Waste Collection

18. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10.00 pm and 6.00 am on any day.

(Reason: To ensure the amenity of surrounding properties)

Delivery Hours

19. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10.00pm and 6.00am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

Shop Premises Registration

110. The shop premises must be registered with Council prior to commencement of operation of the approved activity. Shop Premises Registration must be maintained at all times.

Note:

Council registration forms can be found at <http://www.northsydney.nsw.gov.au>.

(Reason: To ensure compliance with environmental health legislation)

No Illumination

111. No consent is given or implied for any form of illumination or floodlighting to the building or any sign. A separate development application must be lodged and approved prior to any external floodlighting or illumination of the building, approved sign or site landscaping.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

No Entertainment

112. This approval is for extension of trade to an existing restaurant/cafe only and does not authorise musical or other forms of entertainment. A separate development consent is required for any proposed entertainment.

(Reason: Clarification of terms of this consent and ensure compliance with relevant legislation)

Patron Behaviour

113. The proprietors/management of the premises must take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises. The proprietors/ management must ensure that:

(a) A sign is placed in clearly visible position adjacent to the entry/exit of the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.

(b) The [management/licensee] must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbour-hood.

(c) The [management/licensee] must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.

(d) If so directed by Council, the [management/licensee] is to employ private security staff to ensure that this condition is complied with.

(Reason: To ensure patrons do not interfere with the acoustic amenity of residents in the immediate locality)