



Mr Giovanni Cirillo
The Trustees for Cirillo Planning Trust
Se 195, 20-40 Meagher Street
CHIPPENDALE NSW 2008

D309/23
KRR (CPE)

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

Development Application Number:	309/23
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Land to which this applies:	101 Miller Street, North Sydney Lot No.: 1 DP: 814292
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Applicant:	Giovanni Cirillo
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Proposal:	DA for an ancillary on-premises liquor licence within approved office premises within Level 32 the existing office tower.
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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:	22 March 2024
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Reasons for Approval

The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013.

The proposed works to the existing 'Commercial Premises' and provisioning for an on-premises liquor licence is consistent with surrounding development patterns and the objectives of the E2 Commercial Centre Zone and North Sydney Central Business District Planning Area.

Having regard to the provisions of Section 4.15 of *the Environmental Planning and Assessment Act 1979*, the application is considered to be satisfactory and is recommended for approval.

Consent to operate from: 22 March 2024

Consent will lapse on: 22 March 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 22 March 2029.

How community views were taken into account:

The subject application was notified to adjoining properties and the Central Business District Precinct for 14 days where a number of issues were raised that have been addressed in this report where appropriate conditions of consent have been recommended to maintain the amenity and safety of adjoining properties and existing commercial development.

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

22 March 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.

Plan No.	Rev.	Description	Prepared by	Dated
Appendix A Plan of Management		Plan of Management Appendix A	Planning Lab	10/10/2023
Plan of Management		Plan of Management WORK CLUB ON PREMISES LIQUOR LICENCE PLAN OF MANAGEMENT LEVEL 32, 101 MILLER STREET, NORTH SYDNEY	Planning Lab	Updated Version 28/02/2024

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

NSW Police Requirements

- A2. *The following Crime Prevention Through Environmental Design (CPTED) treatment options need to be considered for the proposed development in order to reduce opportunities of anti-social behaviour and the introduced risk of venue morphing.*
- 1. The premise shall be operated in accordance with a Liquor Plan of Management at all times.*
 - 2. An electronic surveillance system must be provided to provide maximum surveillance of all areas of the licensed area including entry/exits, bar and service areas, corridors, and areas where cash is either kept or handled. The system must be capable of recording high-quality images of events. The recording equipment should be locked away to reduce the likelihood of tampering. Monitors should be placed in the store/office areas to allow staff to view all areas under camera surveillance.*
 - 3. All recording made by the CCTV system must be stored for at least 30 days and ensure that the system is accessible by at least one member of staff at all times it is in operation, and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector. The CCTV cameras will need to be placed in suitable locations to enhance the physical security and assist in positively identify an individual, who may be involved in criminal behaviour.*
 - 4. The doors to the terrace should remain locked at all times unless it is being utilised for a function and is adequately supervised by staff members.*
 - 5. If the terrace area is to be used as an extension of the club lounge, suitably engineered and designed barriers should be installed to prevent risk of items falling or being thrown from the terrace.*

6. *In order to prevent “venue morphing,” and to adhere to the primary purpose of the requested license type the following conditions should be applied:*
- a. *The consent holder will ensure that no amplified music or entertainment is played within the premise, including such things such as laser, moving head and RGB LED lighting fixtures.*
 - b. *The following drinks must not be sold or supplied at any time; Any drink (commonly referred to as a shot, shooter, slammer or bomb) that is designed to be consumed rapidly. Doubles (does not apply to genuine cocktails). Ready-to-drink (RTD) packaged beverages exceeding 5% alcohol by volume.*
 - c. *The consent holder is to maintain an approved Liquor and Gaming NSW Incident Register with incidents and details of the action taken to be recorded in the Incident Register at all times.*
 - d. *Liquor can only be sold during the hours of 10.00 am to 8.00 pm, Monday through Friday, or when the premises are operating as a co-shared workplace. This would be in keeping with its primary purpose as authorised under section 24 of the Liquor Act 2007.*

In the event of any inconsistency with the requirements of NSW Police, as expressed within this condition, and any other condition of this consent, the provisions of this consent shall prevail to the extent of the inconsistency.

The requirements of any subsequent liquor licence issued under NSW Liquor Act 2007 shall apply in addition to the requirements of this consent.

(Reason: To ensure the requirements of the NSW police referral are upheld.)

Plans on Site

- A3. 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)

Use of the Outdoor terrace - Required Works

- A4. For the use of the outdoor terrace, a physical barrier/balustrade system is to be installed a minimum height of 1.8 metres high and maximum area of 20 m² outside of the designated indoor bar area.

Use of the terrace area as part of the premises is to be limited to 20 square metres only. The applicant is to ensure all prescribed regulatory requirements under the EP&A Act and Regulations are met in installing the barrier system.

(Reason: To ensure safe and appropriate use of the space in accordance with NSW Police advise and in consultation with the Manager of Development Services)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Appointment of Principal Certifier (PC)

F2. Building work, **demolition** or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifier for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

F4. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Critical Stage Inspections

F5. Building work must be inspected by the Principal Certifier on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifier.

(Reason: Statutory)

Commencement of Works' Notice

F6. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence the erection of the building.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

I. Ongoing/Operational Conditions

Hours of Operation

11. The hours of operation are restricted to:

Monday to Saturday - 10.00 am to 10.00 pm
Sundays - 10.00 am to 8.00 pm

Upon expiry of the permitted hours:

- (a) all service 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)

Plan of Management

12. The management of the premises shall be conducted in accordance with the Operational Plan of Management titled "*Work Club On Premises Liquor Licence Plan Of Management Level 32, 101 Miller Street, North Sydney,*" prepared by Planning Lab, dated 28 February 2024, and received by Council on 28 February 2024, and must comply with the relevant requirements of the following relevant legislation:

- a) NSW Liquor Act 2007 - On-premises license only

except where otherwise amended by the conditions of this consent.

The premises is to be operated for 'Work Club' members and their invited guests only and is not to be open for general public patronage or operated as a public entertainment venue without further consent being obtained.

(Reason: To ensure the ongoing operation of the use is in accordance with the terms of this consent)

No Entertainment

13. This approval is for liquor licencing purposes within the premises. Nothing in this consent authorises musical or other forms of entertainment, beyond basic background amplified music to be broadcast, played or performed within these spaces. Separate development consent is required for any proposed entertainment.

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

Patron Behaviour/Operation

14. 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) No alcohol is to be taken out or consumed on the outdoor terrace. Signs and tactile indicators are to be installed to ensure no alcohol is taken out onto the terrace. Signs are to be erected to warn people to keep away from the terrace edge. It is the responsibility of the management/licensee to ensure safety and security of the operation including the outdoor terrace area.
 - (b) The premises are to be operated for members and their invited guests only and is not to be open for general public patronage without further consent from Council being obtained. Guests entering the premises are to be registered upon arrival. All other patrons are to be members only with a membership records system to be maintained by the operator.
 - (c) A sign is placed in a 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.
 - (d) The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.
 - (e) 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.
 - (f) If so directed by Council, Police or the Liquor Licensing Board, the management/licensee is to employ private security staff to ensure that this condition is complied with.
 - (g) This condition does not override the requirements of NSW Police and Liquor Licensing requirements.

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

Commercial Waste and Recycling Storage

15. General Commercial waste and recycling material/storage bins must be stored in a separate area. Any waste stored within the tenancy is to be held in a temporary holding area only and to be removed daily to the principal commercial and recycling elsewhere on site.

(Reason: To ensure that commercial waste and residential waste is properly managed)

Daily Cleaning

16. The proprietor/operator is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, cigarette butts, bottles etc which may be left on the subject premises, site or immediately adjacent area is picked up and placed in the proprietor's/operator's rubbish bins.

(Reason: To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly buildup of waste material)