



Torotoro Pty Ltd  
302/59 Great Buckingham Street  
REDFERN NSW 2016

D31/24  
TH2 (PE)

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

<b>Development Application Number:</b>	<b>31/24</b>
<b>Land to which this applies:</b>	171 Miller Street, North Sydney Lot No.: 1, DP: 1288164
<b>Applicant:</b>	Torotoro Pty Ltd
<b>Proposal:</b>	Addition of solid fuel (charcoal) exhaust for new retail food and drinks premises
<b>Determination of Development Application:</b>	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.
<b>Date of Determination:</b>	7 June 2024
<b>Reasons for Approval</b>	<p>The development application has been assessed against the North Sydney Local Environmental Plan (NSLEP) 2013 and the North Sydney Development Control Plan (NSDCP) 2013 and generally found to have no major impacts on neighbouring buildings, the physical and environmental characteristics and objectives of North Sydney's Central Business District.</p> <p>The cooking of food at the premises by charcoal method and associated emissions has been sufficiently mitigated as evident in the submitted Odour Assessment Report and subject to conditions of consent the charcoal cooking is unlikely to have an adverse impact on the amenity of the site and surrounds.</p>
<b>Consent to operate from:</b>	7 June 2024

---

**Consent will lapse on:** 7 June 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 7 June 2029.

**How community views were taken into account:**

In accordance with Section 3.5.3 of the Council's Community Engagement Protocol, developments are to have a 14-day period whereby residents can submit a response that can highlight any concerns that they have about the proposal. The notification period for the proposed modifications took place between 29 March - 12 April 2024. Between that time, no submissions were made regarding potential issues with the proposal.

**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**

**7 June 2024**

---

DATE

*Thomas Holman*

---

Signature on behalf of consent authority  
THOMAS HOLMAN  
**SENIOR ASSESSMENT OFFICER**

---

(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.

**INDEX OF CONDITIONS**

	<b>Page No.</b>
<b>A.     <i>Conditions that Identify Approved Plans</i></b>	
A1.    Development in Accordance with Plans/Documentation	6
A2.    Plans on Site	6
<b>G.     <i>Prior to the Issue of an Occupation Certificate</i></b>	
G1.    Compliance with Odour Assessment Report	6
G2.    Certification for Mechanical Exhaust Ventilation	6
G3.    Odour Control Certification	7
<b>I.     <i>Ongoing/Operational Conditions</i></b>	
I1.    Odour Control	7
I2.    Hours of Operation	7

**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.

<b>Plan No.</b>	<b>Rev.</b>	<b>Description</b>	<b>Prepared by</b>	<b>Dated</b>
K-0100	A	Site Plan	Giant Design Consultants	13/02/2024
K-0101	A	Layout Plan	Giant Design Consultants	13/02/2024
K-0102	A	Reflected Ceiling Plan	Giant Design Consultants	13/02/2024

(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)

**G. Prior to the Issue of an Occupation Certificate**

**Compliance with Odour Assessment Report**

- G1. The recommendations contained in the Odour Assessment Report ,prepared by The Odour Unit, dated 22 February 2024, must be implemented during construction and use of the development.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Occupation Certificate, fully satisfy the requirements of this condition.

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

**Certification for Mechanical Exhaust Ventilation**

- G2. Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the National Construction Code, must be submitted to, and approved by, the Principal Certifier.

(Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant)

**Odour Control Certification**

- G3. Prior to issue of the Occupation Certificate a certificate/statement from an appropriately qualified odour consultant is to be submitted to, and approved by, the Principal Certifier certifying that the odour mitigation measures and recommendations outlined in the Odour Assessment Report prepared by the Odour Unit, dated 22 February 2024, have been suitably incorporated into the development and that relevant odour criteria have been satisfied from use of the development.

(Reason: To ensure acoustic amenity)

**I. Ongoing/Operational Conditions**

**Odour Control**

- I1. The on-going use of the premises approved under this consent must not give rise to offensive odour within the meaning of the *Protection of the Environment Operations Act 1997*.

A procedure for inspection, maintenance and servicing of the kitchen exhaust air emissions control system as per the manufacturers specifications shall be implemented at the premises.

(Reason: To maintain amenity for surrounding land uses)

**Hours of Operation**

- I2. The hours of operation are restricted to:

11.00 am to 10.00 pm, Monday to Sunday

Upon expiry of the permitted hours:

- (a) all restaurant 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)