

Italian Neutral Bay Pty Ltd  
Attention: Mauro Marcucci  
PO Box 3157  
RHODES NSW 2138

D144/15  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979  
(AS AMENDED)**

**Notice to Applicant of Determination of Request  
to Modify a Development Consent**

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **144/15** and registered in Council's records as Application No. **144/15/3** relating to the land described as **5/19-25 Grosvenor Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 20 November 2015, has been determined in the following manner: -

**1. Condition I1 of the determination notice to be modified to read as follows:**

**Hours of Operation – trial period**

I1. The hours of operation of DA144/15 are restricted to:

Indoor Trading Hours	8am – 10pm (Sunday – Thursday) 8am – 11pm (Friday and Saturday)
Outdoor Trading Hours	8am – 10pm daily

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.

Notwithstanding the hours as approved above, the indoor trade hours may operate on a trial basis for a period of twelve (12) months from the date of issue of this modification notice as follows:

<i>Indoor Trading Hours</i>	<i>8:00 am – 11:00 pm (Sunday – Thursday) 8:00 am – 12:00 midnight (Friday and Saturday)</i>
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Council must be informed in writing of the date of commencing the trial period.

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the hours of operation as approved under DA144/15 nominated above:

*Note:* Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of ninety (90) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

The conditions attached to the original consent for Development Application No. 144/15 by endorsed date of 20 November 2015 still apply.

## **ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Kim Rothe**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act 1979 (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:

- (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
  - (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
  - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of the Environmental Planning & Assessment Act, 1979 (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of the Environmental Planning & Assessment Act.

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DATE

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Signature on behalf of consent authority  
DAVID HOY  
TEAM LEADER (ASSESSMENTS)