

Original signed by Robin Tse on 14/5/2019
Date determined: 13/5/2019
Date operates: 14/5/2019
Date lapses: 14/5/2024

Danielle McNamara
PO Box 349
NORTHBRIDGE NSW 1860

D59/19
RA3 (CIS)

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

Development Application Number: 59/19

Land to which this applies: Shop 1, 143-151 Military Road, Neutral Bay
Lot No.: 31, SP: 77880

Applicant: Danielle McNamara

Proposal: Change to operating hours

Determination of Development Application: Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, approval has been granted subject to conditions in the notice of determination.

Date of Determination: 13 May 2019

Reason for approval: This application for the modification of consent DA126/08 has been assessed against all applicable environmental planning instruments and was found to be generally satisfactory, including in relation to the North Sydney LEP 2013 and North Sydney DCP 2013.

The proposed hours of operation are consistent with the provisions/requirements as set out within Part B Section 7 (Late Night Trading Hours) in NSDCP.

The use of the premises as a hair salon during the proposed extended operating hours is unlikely to result in noise nuisance or other disturbances detrimental to amenity surrounding residents due to the background noise level associated with traffic and pedestrian activities along Military Road. Therefore, the proposed modifications to the operation hours are considered to be acceptable.

This application for extended opening hours proposes no physical works, and therefore there would be no material impact on the nearby heritage items, or the character of the site and surrounds. Conditions are proposed to limit the impact on nearby residential properties.

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.

Consent to operate from: 14 May 2019

Consent will lapse on: 14 May 2024

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 by 14 May 2024.

How community views were taken into account:

DA59/19 was notified to the surrounding properties and the Brightmore precinct, seeking comment from 22 March to 5 April 2019. One (1) submission was received in objection to the application by Council.

Review of determination and right of appeal:

Within 6 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

DATE

Signature on behalf of consent authority
ROBIN TSE
A/TEAM LEADER ASSESSMENTS

(i) Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & 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.

INDEX OF CONDITIONS

	Page No.
A. <i>Conditions that Identify Approved Plans</i>	
A1. Development in Accordance with Plans/documentation	6
A2. Terms of Consent	6
F. <i>Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation</i>	
F1. Occupation Certificate	6
I. <i>On-Going / Operational Conditions</i>	
I1. Hours of Operation	6

A. *Conditions that Identify Approved Development*

Development in Accordance with Approval

- A1. The hair salon shall operate in strict accordance with the new revised hours of operation. The hair salon shall also continue to operate in strict accordance with all the conditions attached to the previous approval, noting the intervening change of use on site (Ref. DA. 126/08).

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

Terms of Consent

- A2. Approval is granted for a change to the hours of operation only. No approval is given or implied in this consent for any physical works, or any signage within or adjoining the subject property.

(Reason: To ensure the terms of the consent are clear.)

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

Occupation Certificate

- F1. 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 Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

I. *Ongoing/Operational Conditions*

Hours of Operation

- I1. The hours of operation are restricted to:

Monday to Tuesday: 9am to 6pm
Wednesday: 9am to 7pm
Thursday to Friday: 8am to 10pm
Saturday: 8am to 7pm
Sunday: 9am to 5pm

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