

City of Sydney

ABN 22 636 550 790

GPO Box 1591 Sydney NSW 2001 Australia

Town Hall House 456 Kent Street Sydney NSW 2000 Australia

Phone +61 2 9265 9333 Fax +61 2 9265 9222 TTY +61 2 9265 9276

council@cityofsydney.nsw.gov.au www.cityofsydney.nsw.gov.au



NOTICE OF DETERMINATION - APPROVAL

Issued under Section 81(1)(a) of the Environmental Planning and Assessment Act 1979

Development Application No.	D/2008/1694
Applicant	TURNBULL PLANNING INTERNATIONAL PTY LIMITED Quattro Building 2 SUITE 2301 LEVEL 3 4 Daydream St WARRIEWOOD NSW 2102
Land to be developed	34-36 OXFORD STREET , DARLINGHURST NSW 2010
Approved development	Use of 11sqm outdoor courtyard as a smoking area
Cost of development	N/A
Determination	The application was determined under delegation of Council and was granted consent subject to the conditions in Schedules 1 and 2.
Other Approvals	Before commencing building work, you must obtain a Construction Certificate from Council or an accredited certifier.
Consent is to operate from	7 November 2008
Consent will lapse on	7 November 2010

Reasons for conditions

Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest.

Right of appeal

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 (the Act) gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you received this notice.

Alternatively, you may request a review of the decision by the City's Small Permits Appeals Panel, under Section 82A of the Act within 1 year of the date of this notice (N.B. Section 82A is not applicable to integrated or designated development). For further information please contact **Aaron Sutherland on ph. 9246 7720**.

GIOVANNI CIRILLO

Director - City Planning & Regulatory Services

city of villages

NOTICE OF DETERMINATION – APPROVAL D/2008/1694

CONDITIONS OF CONSENT

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

Development must be in accordance with Development Application No. D/2008/1694 dated 1 October 2010 and the smoking room as depicted in the drawing prepared by HAS Architects submitted with the application.

(2) MAXIMUM POPULATION

A maximum number of 8 patrons are permitted to use the smoking courtyard at any one time.

(3) NO CONSUMPTION OF BEVERIDGES

There is to be no consumption of beverages (alcoholic or otherwise) AT ANY TIME within the smoking courtyard.

(4) HOURS OF OPERATION - SENSITIVE USES

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 10am and 10pm, 7 days a week.
- (b) Notwithstanding (a) above, the use may operate between 10pm and 1am, 7 days a week, for a trial period of 12 months from the date of this consent.
- (c) A further application may be lodged to continue the trading hours outlined in (b) above before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

(5) NO SPEAKERS OR MUSIC OUTSIDE

Speakers must not be installed and music must not be played in the smoking courtyard. The door to the smoking room is to remain closed at all times to prevent noise spill from hotel.

(6) NEIGHBOURHOOD AMENITY

- (a) Signs must be placed in clearly visible positions within the **smoking courtyard** requesting patrons to be quiet and to have regard to maintaining the amenity of the area.

NOTICE OF DETERMINATION – APPROVAL D/2008/1694

- (b) The management/licensee must ensure that the behaviour of patrons within the **smoking courtyard** does not detrimentally affect the amenity of the neighbourhood. In this regard, the management/licensee must be responsible for the control of noise generated by smoking to the satisfaction of Council. If so directed by Council, the management/licensee is to employ private security staff to ensure that this condition is complied with.

(7) COMPLAINTS

Should noise complaint be received by Council from a place of different occupancy (including commercial premises) and the complaint being substantiated by a Council Officer, the use of the smoking courtyard shall cease operation until “attenuation works” are carried out so as that the premises complies with the relevant “Noise Control” condition.

(8) NOISE - USE (LICENSED PREMISES)

Noise caused by the approved use including music and other activities must comply with the following criteria:

- (a) The use must not result in the transmission of “offensive noise” as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- (b) The L10 noise level emitted from the use must not exceed 5dB above the background (L90) noise level in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 7.00am and 12.00 midnight when assessed at the boundary of the nearest affected property. The background noise level must be measured in the absence of noise emitted from the use.
- (c) The L10 noise level emitted from the use must not exceed the background (L90) noise level in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of the nearest affected property. The background noise level must be measured in the absence of noise emitted from the use.
- (d) Notwithstanding compliance with (a) and (b) above, the noise from the use must not be audible within any habitable room in any residential property between the hours of 12.00 midnight and 7.00am.

NOTICE OF DETERMINATION – APPROVAL D/2008/1694

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply where there is building work:

1. The prescribed conditions are as follows:
 - (a) The work must be carried out in accordance with the requirements of the *Building Code of Australia* (as in force on the date the application for the relevant construction certificate is made).
 - (b) This condition does not apply to:
 - (i) the extent to which an exemption is in force under Clause 187 or 188, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of the *Environmental Planning and Assessment Regulation 2000*; or
 - (ii) the erection of a temporary building.
2. In the case of residential building work for which the *Home Building Act 1989* requires that there be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force.

IMPORTANT ADDITIONAL INFORMATION

A Review of this determination by the *Small Permits Appeal Panel* must be made in writing. An application form is available at the One Stop Shop. A maximum fee of \$500 applies.

The Environmental Planning and Assessment Act 1979 requires you to:

1. Obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate.
2. Nominate a **Principal Certifying Authority** (PCA) which may be either Council or an accredited certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement.
3. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

You may also need to:

5. Lodge an **Application for Approval** under Section 68 of the *Local Government Act 1993* for an activity under that Act, including the **erection of a hoarding** and for a **Place of Public Entertainment**.
6. Lodge an **Application for Subdivision** to obtain a **Subdivision Certificate** if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain **Strata Title Subdivision** under the relevant Strata Titles Act, if strata title of the development is proposed.
7. Comply with the Food Act 2003, the Australia New Zealand Food Standards Code, Australian Standard 4674 – 2004, and register the business with Council if the premises is used for the manufacture, preparation, packing, storing, conveying or delivering of food or beverage for sale.
8. Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.
9. Carry out critical stage inspections in accordance with Section 109E of the EP&A Act 1979 and clauses 162A, 162B and 163 of the EP&A Regulation 2000.

Applications and submissions referred to in this consent may be lodged at:

CBD Level 2, Town Hall House, 456 Kent St, Sydney.

KINGS CROSS 50-52 Darlinghurst Rd, Kings Cross.

GLEBE Glebe Town Hall 160 St Johns Rd, Glebe.

**If you have any enquiries on any aspect of this consent, contact Aaron Sutherland
ph. 9246 7720, email asutherland@cityofsydney.nsw.gov.au.**