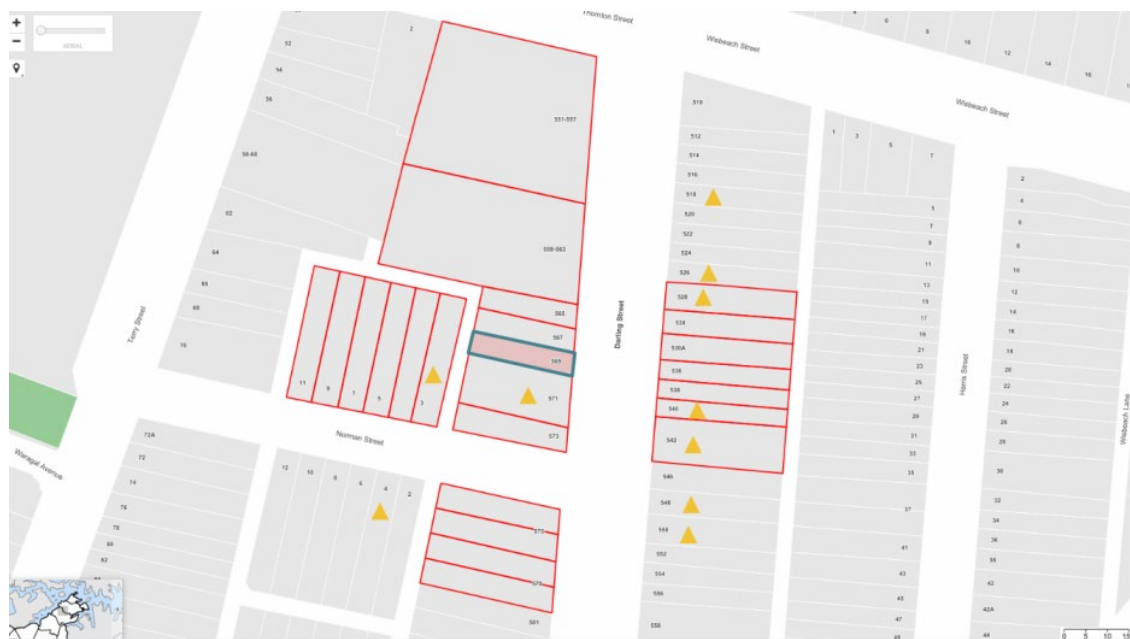








INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2019/181
Address	569 Darling Street, Rozelle
Proposal	Amend and extend trading hours of existing massage shop from 7:30am-6:00pm Monday to Friday, 7.30am-1.00pm Saturday and 9.00am-1.00pm Sundays and public holidays to allow trading hours of 9:00am – 7:00pm Monday to Wednesday and Friday, 9:00am – 8:00pm Thursday and 9:00am – 5:00pm Saturdays, Sundays and public holidays.
Date of Lodgement	15 May 2019
Applicant	Creative 9
Owner	Mr G Skybey
Number of Submissions	10
Value of works	Nil
Reason for determination at Planning Panel	Number of submissions beyond Council Officer delegations
Main Issues	Hours of Operation/ Interface Amenity
Recommendation	Approved with Conditions
Attachment A	Recommended Conditions of Consent
Attachment B	Plans of Proposed Development



LOCALITY MAP

Subject Site		Objectors		 N
Notified Area				

1. Executive Summary

This report is an assessment of a Development Application submitted to Council for an extension of trading hours for an existing business premises (massage parlour) at 569 Darling Street, Rozelle. The application was notified to surrounding properties and 10 submissions were received.

The main issues that have arisen from the application include:

- Hours of operation – The submissions have raised concern with the proposed hours of operation, stating it to be inappropriate for a residential zone.
- Interface amenity – The submissions have raised concern with potential impact on residential amenity impact resulting from the extended hours.

The proposal generally complies with the aims, objectives and controls contained in the relevant State Environmental Planning Policies (SEPPs), Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013, subject to recommended conditions of consent.

The application is therefore recommended for approval.

2. Proposal

The proposal originally requested the extension of trading hours of an existing massage shop as follows:

Existing:

Monday to Friday: 7:30am - 6:00pm

Saturday: 7.30am - 1.00pm

Sundays and Public Holidays: 9.00am - 1.00pm

Proposed:

Monday to Sunday and Public Holidays: 9:00am - 8:00pm

In response to the number of objections received from neighbouring properties, the applicant has since amended the extension of trading hours of the massage shop to be as follows:

Proposed:

Monday, Tuesday, Wednesday, Friday: 9.00am – 7.00pm

Thursday: 9.00am – 8.00pm

Saturday, Sunday and Public Holidays: 9.00am – 5.00pm

3. Site Description

The subject site is located on the western side of Darling Street, between Thornton Street and Norman Street, Rozelle. The site consists of one allotment and is generally rectangular in shape with a total area of 129.9sqm and is legally described as Lot A / DP447461.

The site has a frontage to Darling Street of 5.5 metres and a secondary frontage of approximate 5.3 metres to a rear laneway.

The site supports a two storey premises with an approved business premises use (massage shop) on the ground floor and a residence above. The site is adjoined by 571 Darling Street

which contains a two storey dwelling house and 567 Darling Street which contains a two storey dwelling house.

The property is located within the Iron Cove Heritage Conservation Area (C6). The property is not identified as a flood prone lot.



Figure 2: Subject site viewed from Darling Street. The massage shop is located on the ground floor.

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision and Date
D/2003/628	Alterations and additions to an existing commercial/residential building including a new second floor level with rear deck, extended rear first floor deck, new verandah over the public footpath and new roller shutter to the rear lane.	Approved 19 May 2004
D/2007/378	Change of use to a patisserie and associated signage.	Approved 31 October 2007

CDCP/2019/25	Change of use and fitout of massage shop.	Approved by Private Certifier 21 February 2019
BC/2019/48	The original CDC 2019/0014 (Council reference: CDCP/2019/25) approved three curtains to be provided for each massage room; however, they have been built as partition walls. This application seeks a building certificate for above items.	Under Assessment
EPA/2019/353	Development Control Order under Section 9.34(1)(A) of Schedule 5 to the Environmental Planning and Assessment Act 1979.	Order Issued – D/2019/181 Lodged to formalise extended hours

Surrounding properties

Application	Proposal	Decision and Date
D/2008/157	<u>571 Darling Street</u> New ground level laundry, bathroom, steps, verandah roof, and an upper level bedroom window to rear of existing dwelling.	Approved 4 June 2008
D/2016/164	<u>565 Darling Street</u> Change of use to hairdressing salon and associated fitout works plus replacement signage	Approved 1 June 2016
DAREV/2002/8	<u>561-563 Darling Street</u> Review of determination of development consent D/2000/1029 for demolition and erection of 3 storey mixed residential/commercial building to Darling Street, and 4 terrace houses to Terry Street.	Approved 20 February 2003

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
19 June 2019	Council advised the applicant that a number of objections had been received from surrounding residents during the notification period. The applicant advised that they were willing to provide flexibility on the proposed hours of operation in order to address the concerns of residents.
2 July 2019	The applicant submitted the following additional information: <ul style="list-style-type: none"> Information relating to services offered in association with the massage shop. Amended proposed hours of operation as follows: Monday, Tuesday, Wednesday, Friday: 9.00am – 7.00pm Thursday: 9.00am – 8.00pm Saturday, Sunday and Public Holidays: 9.00am – 5.00pm

The additional information and amended (reduced) proposed hours of operation submitted to Council on 2 July 2019 form the basis of this report.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- Leichhardt Local Environmental Plan 2013 (LLEP 2013)

The following provides further discussion of the relevant issues:

5(a)(v) *Leichhardt Local Environment Plan 2013 (LLEP 2013)*

The application was assessed against the following relevant clauses of the *Leichhardt Local Environmental Plan 2013*:

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulfate Soils
- Clause 6.10 – Use of existing buildings in Zone R1

Clause 2.3 – Land Use Table and Zone Objectives

The site is zoned R1 General Residential under the LLEP 2013. The current use of the site is as a massage shop approved under Complying Development Certificate No. 2019/0014 (Council reference: CDCP/2019/25) which is a type of business premises. LLEP 2013 defines a business premises as follows:

“business premises means a building or place at or on which:

- a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- b) a service is provided directly to members of the public on a regular basis,*

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.”

The development is permitted with consent within the land use table.

The development has been considered against the objectives of the R1 General Residential zone, which are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

It is noted that a number of objections were received during the notification period that raised concern about the use of a massage shop within the R1 General Residential Zone. The use of the premises as a massage shop has been approved under a Complying Development Certificate, and therefore, the use of the premises is not under assessment within this Development Application. Nevertheless, and as previously noted, the use is permissible in the zone, and is a type of non-residential land use that provides facilities or services to meet the day to day needs of residents.

Concern was also raised by a number of objectors with regard to the appropriateness of the use of a massage shop within a residential zone and questions were raised as to whether the site is currently being operated as a sex service premises. Based on submitted information and a site inspection of the operating premises, there is no legitimate evidence to suggest that the site is operating as a sex service premises. This application relates to the extension of hours of operation to a massage shop only, and any non-compliance with the original CDC is a matter for Council's Compliance department to investigate.

Further, the appropriateness of extending the hours of the approved use within the R1 General Residential zone has been considered, and as discussed in further detail later in this report, subject to recommended conditions, including:

- to restrict the extent of extended trading hours; and
- to ensure that the use does not result in unacceptable adverse noise impacts as recommended by Council's Environmental Health Officers,

the amenity of existing and future residents will be satisfactorily protected.

The proposal only relates to extended trading hours, and hence, will have no impacts on existing housing in terms of provision, variety or type or landscaped area, nor alter the subdivision pattern or the streetscape.

Overall, the extension of hours at the premises for the use of a massage shop is consistent with the objectives of the R1 General Residential zone, subject to recommended conditions – see Section 5(c) of this report for further details.

Clause 5.10 – Heritage Conservation

The subject site is located within the Iron Cove Heritage Conservation Area (C6). The proposal relates to hours of operation only, and therefore, will not have adverse impacts on the HCA.

Clause 6.10 – Use of existing buildings in Zone R1

The proposed extension to operating hours will not have an unreasonable impact on the residential amenity of the surrounding residential area, as discussed in detail under Clause C4.5 Interface Amenity in section 5(c) of this report. As the application proposes no works, the existing fabric and footprint of the building will remain unchanged.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

5(c) Development Control Plans

The application has been assessed against the relevant Development Control Plan listed below:

- Leichhardt Development Control Plan 2013 (LDCP2013)

The application has been assessed and the following provides a summary of the relevant provisions of the LDCP2013.

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special Events)	
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Not applicable
C1.3 Alterations and additions	Not applicable
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Not applicable
C1.8 Contamination	Not applicable
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes – See discussion
C1.12 Landscaping	Not applicable
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Not applicable
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Not applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes	Not applicable

and Rock Walls	
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Not applicable
Part C: Place – Section 2 Urban Character	
C2.2.5.5 Rozelle Commercial Distinctive Neighbourhood (Darling Street Sub Area)	Yes – See discussion
Part C: Place – Section 3 – Residential Provisions	Not applicable
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Not applicable
C4.2 Site Layout and Building Design	Not applicable
C4.3 Ecologically Sustainable Development	Not applicable
C4.4 Elevation and Materials	Not applicable
C4.5 Interface Amenity	Yes – See discussion
C4.6 Shopfronts	Not applicable
C4.7 Bulky Goods Premises	Not applicable
C4.8 Child Care Centres	Not applicable
C4.9 Home Based Business	Not applicable
C4.10 Industrial Development	Not applicable
C4.11 Licensed Premises and Small Bars	Not applicable
C4.12 B7 Business Park Zone	Not applicable
C4.13 Markets	Not applicable
C4.14 Medical Centres	Not applicable
C4.15 Mixed Use	Not applicable
C4.16 Recreational Facility	Not applicable
C4.17 Sex Services Premises	Not applicable
C4.18 Vehicle Sales or Hire Premises And Service Stations	Not applicable
C4.19 Vehicle Repair Station	Not applicable
C4.20 Outdoor Dining Areas	Not applicable
C4.21 Creative Industries	Not applicable
Part D: Energy	Not applicable
Part E: Water	Not applicable
Part F: Food	Not applicable
Part G: Site Specific Controls	Not applicable

The following provides discussion of the relevant issues:

C1.11 Parking

One car parking space is currently provided on the site and no change to the existing parking is proposed.

Part C1.11.1 of the LDCP 2013 requires a minimum of 1 space per 100sqm for a business premises. The existing parking provision complies with this requirement.

Several objections raised concern about the increased demand for parking resulting from the extended hours of operation. As noted above, the proposal complies with the requirement for

car parking provision and the proposed extension of hours is not expected to significantly impact the demand for parking in the area.

C2.2.5.5 Rozelle Commercial Distinctive Neighbourhood (Darling Street Sub Area)

The subject site is located within the Rozelle Commercial Distinctive Neighbourhood. It falls within the Darling Street Sub Area which is subject to additional objectives and controls.

A number of objections raised concern about the extended hours of operation not being in keeping with the objectives and controls for this distinctive neighbourhood.

The key relevant objectives of the Rozelle Commercial Distinctive Neighbourhood include:

- *C2 - Promote a mix and variety of uses and building styles that enhance and contribute to the character and identity of the neighbourhood, whilst protecting significant prominent buildings and the townscape.*
- *C3 - Promote a residential/commercial mix in the retail part of the neighbourhood by allowing shoptop residential development subject to amenity, density and streetscape controls.*
- *C11 Promote the continuing development of the neighbourhood and encourage land uses and development that contribute to the needs of the local community.*

Comment: The proposed extension of hours complies with the above controls as it contributes to a mix and variety of uses within the neighbourhood, contributes to a residential/ commercial mix in the retail part of the neighbourhood (Darling Street) and encourages land uses and development that contribute to the needs of the local community. Amenity impacts arising from the proposal are discussed below, and the proposal, subject to recommended conditions, is considered acceptable in terms of its impacts on the locality.

The key relevant objectives of the Darling Street Sub Area include:

- *C4 - Preserve the current residential character and uses along the part of Darling Street zoned residential.*

Comment: Subject to restricting trading hours in accordance with the requirements of Council's Environmental Health Officer (see assessment under Control C4.5 - *Interface Amenity* below) in the aim of protecting the amenity of surrounding residences, extended trading hours will meet the requirements of Control C4.

C4.5 Interface Amenity

Part C4.5 of the Leichhardt DCP 2013 provides objectives and controls to ensure that non-residential uses are located, sited, designed and operated to protect residential amenity.

Noise

Part C4.5 of the DCP includes the following controls relating to noise:

- *C4 - Noise generating activities are located within buildings.*
- *C5 - Noise generating activities are located and oriented away from residential uses or other sensitive receiving environments*
- *C6 - Noise generating activities are screened from residential uses or other sensitive receiving environments by acoustic barriers such as solid walls or acoustic fencing.*

The use of a massage shop is considered to have negligible impact having regard to noise generation both internally and externally. The applicant provided the following comments having regard to noise:

“It is a serene massage store and people go there to relax and rejuvenate. It is a quiet and peaceful environment. There is no additional noise due to the proposed trading hours extension. No impact on the surrounding residents. The extended trading hours are extended to 8pm only.”

The application was referred to Council’s Environmental Health Officer who advised that the proposed changes to the operating hours are generally considered satisfactory from an Environmental Health perspective. However, it was recommended that restrictions be placed on weekend operating hours to ensure that the amenity of neighbouring residents is not impacted.

The following weekend operating hours are recommended by Council’s Environmental Health Officer:

- Saturday: 9:00am – 6:00pm
- Sunday: 9:00am – 1:00pm
- No trade on public holidays

The restriction of weekend trading hours is considered reasonable given the location of the premises in close proximity to surrounding residences. As such, a condition of consent will be imposed on any consent granted to reflect the above, however trading on Saturday will be limited to 9.00am – 5.00pm (rather than 6.00pm) which is in line with the amended hours of operation proposed by the applicant.

Additionally, a condition of consent will be imposed on any consent granted to ensure that the use of the premises does not give rise to an ‘offensive noise’ as defined in the Protection of the Environment Operations Act 1997 and Regulations.

Light spill

A number of submissions raised concern about light spill from existing signage on the site. No signage is proposed as part of this Development Application. The existing signage approved under CDCP/2019/25 consists of vinyl graphics on the existing window glazing fronting Darling Street to a height of 1.3m above the ground floor level. Any non-compliance with this approval is a matter for consideration by Council’s Compliance department and is outside the scope of this specific Development Application.

A condition will be imposed on any consent issued requiring any illuminated signage on the premises to only operate during operating hours, and be variable at the discretion of Council if it is considered to have an adverse amenity impact on the surrounding area. This condition is deemed necessary, as the surrounding area is predominantly residential, and there is potential for light spill to the dwellings on the other side of the road.

As such, the proposal – as conditioned – is not anticipated to result in unreasonable light spill to adjoining residential uses.

Privacy

A number of submissions received raised concerns about privacy impacts from the proposal.

The application relates to hours of operation only and therefore no new windows, alterations or additions are proposed. The proposed use is contained indoors and would not spill to any external patio or deck area.

As such, the proposal satisfies the objectives and controls contained relating to privacy in Part C4.5 of the DCP.

Surrounding Development

Surrounding development consists of a variety of residential and commercial uses. The majority of uses along the eastern side of Darling Street opposite the subject site are residential dwellings, as well as an Early Childhood Health Centre at No. 530A, a Dental Practice at No. 542, and a Pack-and-Send retail store at No. 546.

The western side of Darling Street surrounding the subject site consists of predominantly commercial uses, including a Medical Centre at No. 579, a dry cleaners at No. 575, a hairdressing salon at No. 565, an office premises at No. 561-563 as well as several residential dwellings.

It is noted that the abovementioned hairdressing salon at 565 Darling Street was approved under D/2016/164. This premises is located two premises north of the subject site. The determination notice for D/2016/164 included the following condition of consent relating to hours of operation:

- 26. *The premises including the outdoor area are only to be open for business and used for the purpose approved within the following hours.*

<i>Monday to Tuesday</i>	<i>9.30am to 6pm</i>
<i>Wednesday to Thursday</i>	<i>9.30am to 8pm</i>
<i>Friday</i>	<i>9.30am to 6pm</i>
<i>Saturday</i>	<i>8.00am to 5pm</i>
<i>Sunday</i>	<i>No trading</i>

Set-up and clean-up operations must commence no earlier or later than 1 hour before opening and 1 hour after closing hours (as stipulated by this condition). All doors and windows must remain closed during set up and cleaning where possible.

Set up and clean up operations for outdoor areas must occur during the relevant operating hours.

Service is to cease 30 minutes before closing time /ceasing of operating hours.

The hours of operation proposed for the massage shop are generally reflective of the approved hours for the hairdressing salon, which includes trading to 8pm on Wednesdays and Thursdays. The two uses are considered to be similar in terms of amenity impact and both are located within the R1 General Residential zone. As such, it is considered reasonable to grant consent to the proposed hours of operation, subject to conditions to mitigate the amenity impacts on surrounding residences.

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(e) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with the Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. A total of 10 submissions were received.

The following issues raised in submissions have been discussed in this report:

- Use as a massage shop within a residential neighbourhood - See Section 5(a)(i).
- Hours of operation/ interface amenity – See Section 5(c).
- Light spill – See Section 5(c).
- Increased traffic/ parking demand - See Section 5(c).
- Signage - See Section 5(c).

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue 1: Non-compliance with existing approval.

Comment: A number of submissions raised concern about existing non-compliances relating to signage and hours of operation. This application has assessed the extended hours of operation on its merits and any existing non-compliances are to be referred to Council's Compliance Department for investigation. The non-compliance with the hours of operation is currently under investigation by Council's Compliance Department, and this application has been lodged to assess the extended hours and formalise, if found to be supportable on planning grounds.

Issue 2: It would set a precedent that risks extending to other buildings in the residential zone.

Comment: As noted previously in this report, there are a number of existing commercial premises in the vicinity with similar hours of operation. The existing use is permitted with consent in the R1 General Residential zone and the extended hours of operation have been assessed as being consistent with the zone objectives, subject to conditions. Conditions of consent will ensure that any adverse amenity impacts on adjoining premises are minimised. Any future application for commercial premises in the vicinity of the site in the R1 General Residential zone will be assessed on its merits.

Issue 3: This will set a precedent for any subsequent business leasing this premises.

Comment: Concern was raised by objectors about the potential for a future use on the site to utilise the hours of operation approved with this application. Particular concern was raised if any potential future use that is noisier than a massage shop, operates within these longer hours with a Complying Development Certificate, for example, a café.

Clause 5.4 of Subdivision 2 Change of Use of Premises in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* contains development standards for a change of use of premises as

complying development. Clause 5.4(g) contains the following development standard:

(g) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, noise, car parking, loading, vehicular movement, traffic generation, waste management or landscaping.

As such, any future CDC applied for on the site will need to comply with the above standard, which imposes any conditions relating to hours of operation as well as noise/ amenity to that CDC.

The potential for a future change of use is not a legitimate reason to refuse the proposed hours of operation. Any future Development Application for the site will be assessed on its merits and any future CDC will need to comply with the above standard and any conditions imposed by that CDC.

5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal, as conditioned, is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in Section 5 above.

- Environmental Health Officer

6(b) External

The application was not required to be referred to any external bodies.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013.

The development, as conditioned, will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. D/2019/181 for extension of trading hours of existing massage shop at 569 Darling Street Rozelle subject to the conditions listed in Attachment A below.

Attachment A – Recommended Conditions of Consent

On-going

1. Hours of Operation

The premises including the outdoor area are only to be open for business and used for the purpose approved within the following hours.

Day	Hours
Monday, Tuesday, Wednesday, Friday	9.00am – 7.00pm
Thursday	9.00am – 8.00pm
Saturday	9.00am – 5.00pm
Sunday	9.00am – 1.00pm
Public Holidays	No trade

Set-up and clean-up operations must commence no earlier or later than 1 hour before opening and 1 hour after closing hours (as stipulated by this condition). All doors and windows must remain closed during set up and cleaning where possible.

Set up and clean up operations for outdoor areas must occur during the relevant operating hours.

Service is to cease 30 minutes before closing time /ceasing of operating hours.

2. Acoustic Impacts

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

3. Health Impacts

The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.

4. Restricted Premises, sex services premises, or home occupation (sex services) – Consent Not Granted

The premises are not to be used for the purpose of a restricted premises, sex services premises, or home occupation (sex services), as defined in the Leichhardt Local Environmental Plan 2013. The premises shall not be used for any use other than what was approved under Complying Development Certificate 2019/0014 (Council reference: CDCP/2019/25).

5. Skin Penetration – Consent Not Granted

The premises are not to be used for the purpose of skin penetration procedures as defined in the Public Health Act 2010 and the Public Health Regulations 2012.

6. Waste – Commercial collection time

To ensure minimal impacts on surrounding properties commercial waste and recyclable material generated by the premises must not be collected between the hours 9pm and 8am.

7. Illuminated Signage

Any approved lighting of the premises and illuminated signage shall not be operated outside of approved hours of operation, and be installed and maintained so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.

Advisory notes

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a) Application for any activity under that Act, including any erection of a hoarding.
- b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
- c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.

- d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
- e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
- f) Development Application for demolition if demolition is not approved by this consent.
- g) Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
- b) A concrete pump across the roadway/footpath
- c) Mobile crane or any standing plant
- d) Skip bins
- e) Scaffolding/Hoardings (fencing on public land)
- f) Public domain works including vehicle crossing, kerb and guttering, footpath, stormwater, etc.
- g) Awning or street verandah over footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Attachment B – Plans of Proposed Development

JOB NUMBER: P20190212
 PROJECT NAME: MESSAGE STORE @ ROZELLE
 PROJECT ADDRESS: 569 DARLING STREET, ROZELLE NSW 2039

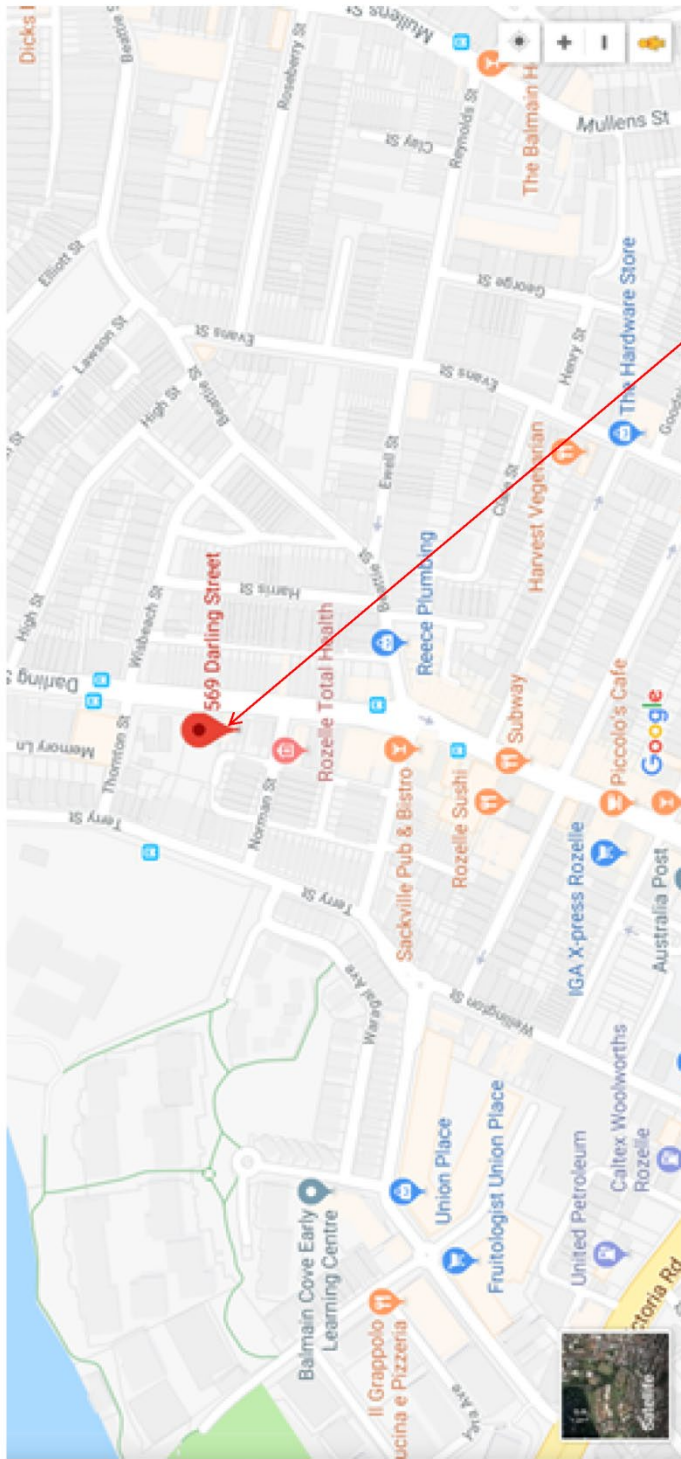
DWG NO.	TITLE	SIZE	ISSUE	NOTE
000	COVER PAGE	A3	A	
001	GENERAL NOTE	A3	A	
101	LAYOUT PLAN	A3	A	
102	DIMENSION PLAN	A3	A	
103	REFLECTED CEILING PLAN	A3	A	
200	SHOPFRONT ELEVATION	A3	A	
201	SECTION 01	A3	A	
202	BLADE SIGN DETAIL	A3	A	
		DD	13	
		MM	02	
		YY	19	

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 14/15-17/18
 14/15-17/18
 14/15-17/18

REV	DATE	BY	NOTES
A	13/02/2019	K.V	FOR APPROVAL

PROJECT NAME MESSAGE STORE @ ROZELLE	PROJECT NUMBER P20190212	LOCATION 569 DARLING STREET ROZELLE NSW 2039	DRAWN BY K.V	CHECKED BY J.C	APPROVED BY J.C
ISSUED FOR FOR APPROVAL	DRAWING TITLE COVER PAGE	DATE 13/02/2019	SCALE N/A	REVISION A	DRAWING NUMBER 000



This Development Application is proposing to modify the Development Consent to allow alteration of trading hours to Monday to Sunday and Public Holidays 9 am to 8 pm

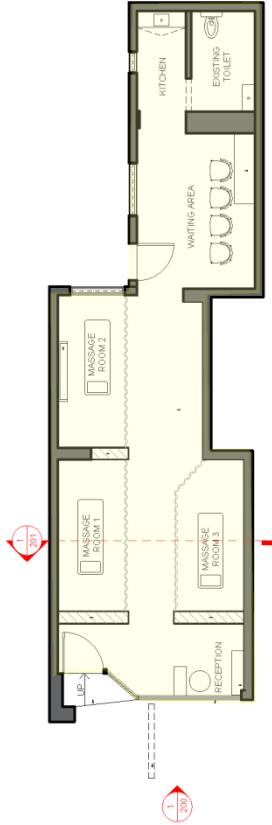
560 Darling Street, Rozelle, 2039

1 SITE PLAN

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<p>REV</p>		<p>DATE</p>		<p>BY</p>		<p>NOTES</p>		<p>ISSUED FOR: FOR APPROVAL</p>		<p>DRAWING TITLE: SITE PLAN</p>		<p>SCALE: 1:1000</p>		<p>REVISION: A</p>	
<p>A</p>		<p>13/02/2019</p>		<p>K.V</p>		<p>FOR APPROVAL</p>		<p>FOR APPROVAL</p>		<p>DATE: 13/02/2019</p>		<p>DRAWING NUMBER: SP</p>			



Address: 569 Darling Street, Rozelle, 2039.
 Development Application No. D/2007/378 stipulates the following trading hours and hence current is operating:
 Monday to Friday 7:30AM to 6:00PM
 Saturday 7:30AM to 1:00PM
 Sunday and Public Holidays 9:00AM to 1:00PM.
 This Development Application is proposing to modify the Development Consent to allow alteration of trading hours to
 Monday to Sunday and Public Holidays 9 am to 8 pm



1 FLOOR PLAN
 SCALE 1:100

NOTE
 1. LEASE PLAN BY SHOPPING CENTRE SHOULD BE OBTAINED PRIOR TO COMMENCEMENT OF DESIGN DOCUMENTATION WITH DESIGN APPROVAL.
 2. ALL DIMENSIONS MUST BE CHECKED ON SITE BEFORE ANY FABRICATION.
 3. NOT WORKING ASHES, MASSAGE, SHOWER REFERENCE. BUILDER NEED TO CONFIRM ON SITE PROHIBITORY PRINTING.
 4. ALL EQUIPMENT CABINET AND COUNTER SHOULD BE CONFIRMED WITH CLIENT BEFORE FABRICATION.
 5. BUILDERS SHOULD CHECK THE CENTRES REQUIREMENTS REGARDING INTERFERENCE WALL BEFORE INSTALLING SHELVES OR SHOWER. ALL EQUIPMENT AND SHELVES MUST BE SELF-SUPPORTED.
 6. ALL SERVICES MUST BE CO-ORDINATED AND APPROVED BY OPERATIONS MANAGER PRIOR TO COMMENCEMENT ON SITE.
 7. SHOP DRAWING FOR ALL SS WORK ARE TO BE PROVIDED TO CREATIVE NINE DESIGN AND LANDLORD FOR APPROVAL PRIOR TO MANUFACTURE.

NOTE
 1. SHOPFITTER TO CONFIRM QUANTITY OF COLUMNS ON SITE ASAP. PRIOR TO ANY WORK DONE ADVISE DESIGNER ACCORDINGLY ON ANY WORK DISCREPANCIES.
 2. SHOPFITTER TO CONFIRM LOCATION OF EXISTING ESB PRIOR TO ANY WORK DONE & ADVISE DESIGNER ACCORDINGLY.
 3. SHOPFITTER TO CONFIRM SIZE & ADVISE LOCATION OF EXISTING TOILET PRIOR TO ANY WORK DONE & ADVISE DESIGNER ACCORDINGLY.



NOTE:
 1. QUANTITIES TYPE AND SPECIFICATION TO BE CONFIRMED WITH CLIENT PRIOR TO INSTALLATION.

REV	DATE	BY	NOTES
A	13/02/2019	K.V	FOR APPROVAL

APPROVED BY: J.C	CHECKED BY: J.C	PROJECT NUMBER: P20190212	LOCATION: 469 DARLING STREET ROZELLE NSW 2039
SCALE: 1:100@A3	DATE: 13/02/2019	PROJECT NAME: MESSAGE STORE @ ROZELLE	REVISION: A
DRAWING NUMBER: 101	DRAWING TITLE: FLOOR PLAN	ISSUED FOR: FOR APPROVAL	

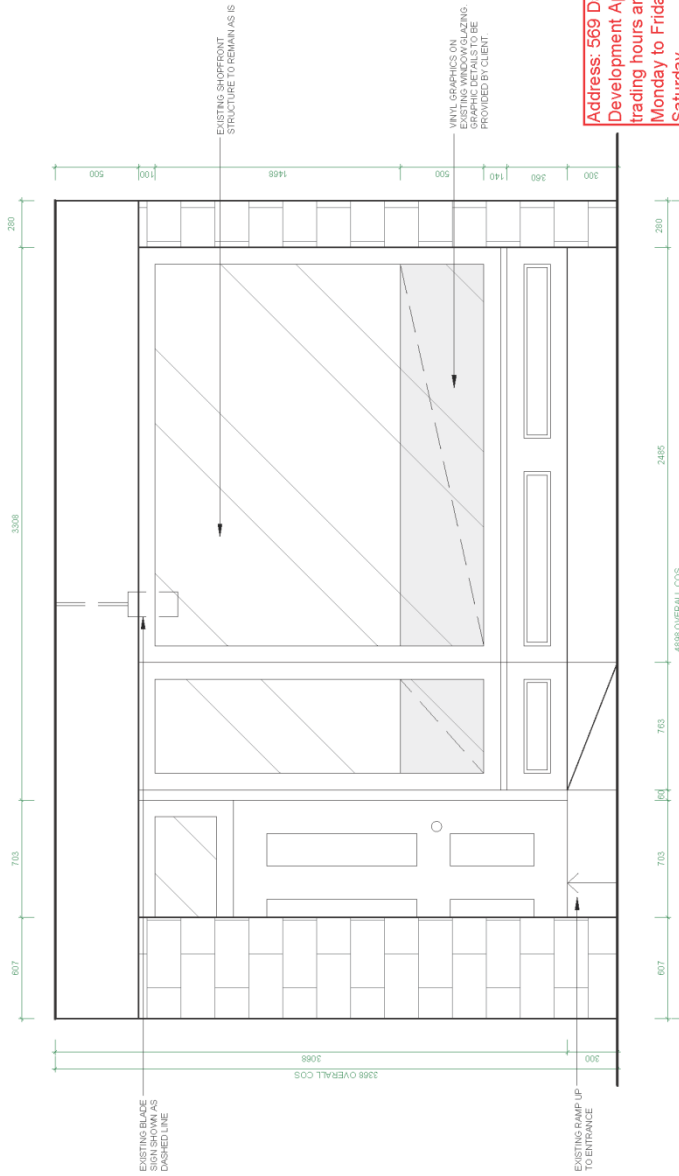
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 Creative Interiors
 45-53/201
 111 Darling Street
 Rozelle NSW 2039
 Ph: 02 9550 2222
 Fax: 02 9550 2223
 Email: info@creative9.com.au



2 REFERENCE PHOTO
SCALE NTS

NOTE:
DRAWINGS ARE FOR DESIGN INTENT ONLY.
ALL EXISTING ITEMS TO BE MEASURED
ONSITE PRIOR TO CONSTRUCTION



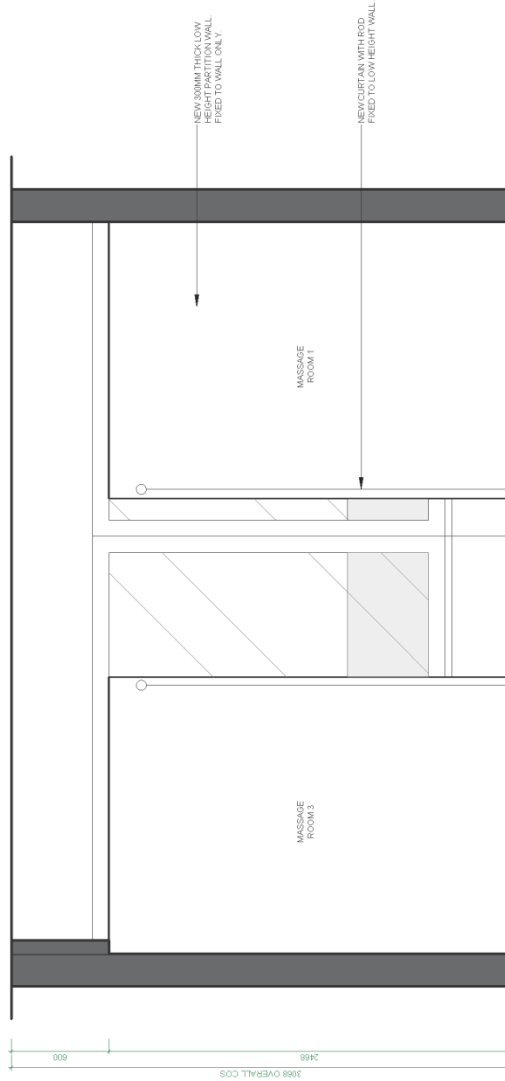
Address: 569 Darling Street, Rozelle, 2039.
Development Application No. D/2007/378 stipulates the following trading hours and hence current is operating:
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1 ELEVATION
SCALE 1:25

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REV	DATE	BY	NOTES	PROJECT NAME	PROJECT NUMBER	LOCATION	DRAWN BY	CHECKED BY:	APPROVED BY:
A	13/02/2019	K.V	FOR APPROVAL	MESSAGE STORE @ ROZELLE	P20190212	569 DARLING STREET ROZELLE NSW 2039	K.V	J.C	J.C
				ISSUED FOR:			DATE:	SCALE:	REVISION:
				FOR APPROVAL			13/02/2019	1:25@A3	A
DRAWING TITLE						DRAWING NUMBER			
SHOPFRONT ELEVATION						200			

NOTE:
DRAWINGS ARE FOR DESIGN INTENT ONLY.
ALL EXISTING ITEMS TO BE MEASURED
ONSITE PRIOR TO CONSTRUCTION

Address: 569 Darling Street, Rozelle. 2039.
Development Application No. D/2007/378 stipulates the following trading hours and hence current is operating:
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1 SECTION
SCALE 1:25

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REV	DATE	BY	NOTES
A	13/02/2019	K.V	FOR APPROVAL
<p>PROJECT NAME: MASSAGE STORE @ ROZELLE PROJECT NUMBER: P20190212 LOCATION: 569 DARLING STREET ROZELLE, NSW 2039 DRAWN BY: K.V DATE: 13/02/2019 CHECKED BY: J.C SCALE: 1:25@A3 APPROVED BY: J.C REVISION: A DRAWING NUMBER: 201</p>			
ISSUED FOR: FOR APPROVAL			DRAWING TITLE: SECTION 01