

Original signed by Geoff Mossemenear on 10/1/2018
Date determined 9/1/2018
Date operates 10/1/2018
Date lapses 10/1/2023

CCS Property Holdings Group
Ground Floor
118 Christie Street
ST LEONARDS NSW 2065

D462/17
GM(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
ROADS ACT 1993, AND LOCAL GOVERNMENT ACT 1993 AS APPLICABLE**

Notice to Applicant of Determination of a Development Application

Pursuant to Section 81 of the Act, notice is given that Development Application No. **462/17** proposing **stratum subdivision of new mixed use building into two lots** on land described as **222 Pacific Highway, Crows Nest** has been determined under delegated authority by the granting of consent subject to the conditions below. Where indicated, approval is also granted for works on public roads under the provisions of Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993. An index of conditions is also attached on the last page of this Notice.

A. *Conditions that Identify Approved Plans*

Development in Accordance with Plans/documentation

- A1. The development must be carried out in accordance with the subdivision plans being prepared in accordance with Plan of Subdivision, Sheets 1-5, drawn by C & A Surveyors (Surveyor's reference 3518-15 DP), and received by Council on 22 December 2017, and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

(Reason: Statutory)

J. *Prior To The Issue Of Any Subdivision Certificate (Stratum)*

Subdivision Certificate

- J1. To enable registration of the plan of subdivision at NSW Land and Property Information (Land Title) Office, the person acting on the consent must apply for a Subdivision Certificate pursuant to section 109J of the Environmental Planning and Assessment Act 1979. To enable the determination of the application for a Subdivision Certificate by North Sydney Council, the applicant must submit the following: -

- a) The original plans of subdivision and administration sheets plus two (2) copies of each, and any original 88B instrument to be endorsed, all **enclosed in a protective cardboard tube** (to prevent damage during transfer);
- b) 2 additional copies of both the plans and any 88b instrument for submission to Customer Services and records for electronic database scanning and copying;
- c) Application for Subdivision Certificate form duly completed with payment of fee current at lodgement; and
- d) Written evidence that all applicable conditions of consent to be satisfied, prior to issue of the Subdivision Certificate, have been satisfied (including submission of all required certificates and the like).

IMPORTANT NOTES:

- 1) Council will check the consent conditions on the relevant subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision, and may require payment of rechecking fees.
- 2) **Plans of subdivision and copies must not be folded.**
- 3) **Council will not accept bonds in lieu of completing subdivision works.**

(Reason: To ensure compliance with relevant legislative requirements and maintenance of up to date Council records)

Sydney Water Compliance Certificate

- J2. The person acting on the consent must obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994. Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index, or telephone 13 20 92. Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted with the application for the Subdivision Certificate.

(Reason: To ensure future lots meet Sydney Water requirements in relation to water/sewer servicing)

Services within Lots

- J3. A Registered Surveyor shall provide certification that all services (including but not limited to stormwater drainage, gas, electricity, telephone cable) as constructed or to be constructed are/will be contained within each lot or within the necessary easements to accommodate such services.

(Reason: To ensure adequate servicing of the development)

Easements, Rights-of-Way and Restrictions-as-to-User

- J4. All easements, rights-of-way, right- of-carriageway, and restrictions-as-to-user as indicated on the plans submitted with the application for a Subdivision Certificate are to be registered on the title of the relevant lots.

(Reason: To ensure proper management of land)

Special Burden

- J5. In addition to all other dealings, an Instrument pursuant to Sections 88B and 88E of the *Conveyancing Act* 1919 providing for:

- i. a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 222 Pacific Highway Crows Nest requiring the ongoing retention, maintenance and operation of the stormwater facility (pump-out);

(Reason: To ensure proper management of land)

Building and Unit Numbering

- J6. Prior to issuing any Subdivision Certificate for the subdivision, the person acting upon this consent must apply to North Sydney Council and receive written confirmation of the allocated street address (house number) and unit numbers for the building. These are the numbers that will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard.

To assist Council a draft proposal for numbering should be submitted for concurrence to Council, as these numbers will be used to maintain Council's property and mapping database.

(Reason: To ensure that Council records are accurate, and that building and unit numbering complies with the requirements of Council's House Numbering Policy. Proper building and unit numbering also assists emergency services in readily locating properties)

DATE OF DETERMINATION:

DATE FROM WHICH CONSENT OPERATES:

DATE CONSENT LAPSES:

ADVISINGS

Notes

(a) Council is always prepared to discuss its decisions, and in this regard please do not hesitate to contact the undersigned. However, if you wish to pursue your rights of appeal in the Land and Environment Court pursuant to Section 97 of the Act, 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) 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 modification under Section 96 of the Environmental Planning & Assessment Act 1979.

Please bear this in mind before preparing documentation in support of a Construction Certificate application. 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 96 of the Environmental Planning & Assessment Act.

(c) Section 82A of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The review must be completed within six (6) months after the date of receipt of this Notice of Determination. If you intend to lodge a request for a review it is recommended that the request, together with payment of the appropriate fees, is lodged as early as possible in order to allow sufficient time for notification, assessment, reporting, etc, prior to the expiration of the 6 month review period. It is recommended that the applicant discuss any request for a review of the determination with Council Officers before lodging such a request.

(d) 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) Relevant approvals must be obtained under the provisions of Section 138 of the Roads Act, 1993 for any works on public roads which are not the subject of this consent.
 - (ii) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - (iii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with 81A(2)(b1)(i) of the Act.
 - (iv) Council is to be notified at least two (2) days before the intention to commence building works, in accordance with Section 81A(2)(c) of the Act.
- (e) The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue necessary documentary evidence or certificate/s.

(f) **Sydney Water Requirements**

You are advised that any building works may also require prior approval from Sydney Water. Further details can be obtained from the Sydney Water website at www.sydneywater.com.au.

(g) **Telecommunications**

Please consult a suitably qualified telecommunications company with a licence issued by the Australian Communications & Media Authority (www.acma.gov.au or 1800 226 667).

(h) **Dial before you dig**

Before you dig call “Dial before you dig” on 1100 (listen to the prompts) or further information on underground utility services for any excavation areas may be found on www.1100.com.au.

Council’s officers can provide these services, and further information, including a copy of the terms of agreement and fee schedule, can be obtained by telephoning Council’s Customer Service Centre on **9936 8100**.

Please note that all building work must be carried out fully in accordance with the development consent and conditions of approval and it is an offence to carry out unauthorised building work or building work that is not in accordance with Council's approval.

An offence under the Environmental Planning and Assessment Act 1979 and Regulations is subject to a penalty up to \$110,000 and \$11,000 respectively.

Council may also serve a notice and an order to require the demolition/removal of unauthorised building work or to require the building to be erected fully in accordance with the development consent.

On the spot penalties will be imposed for works which are carried out in breach of this consent, or without consent.

An amended development application is required to be submitted to and approved by Council, and a Construction Certificate is to be obtained from the Council or an Accredited Certifier, prior to commencement of any variations from the approved plans and conditions of approval.

DATE

Signature on behalf of consent authority
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER

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