

Original signed by Geoff Mossemenear on 25/1/18

Date determined 23/1/18

Date operates Deferred

Date lapses 25/1/23

Glenn Hugh Holmes
1303/588 Oxford Street
BONDI JUNCTION NSW 2022

D337/17
LD5 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
Notice to Applicant of Determination of a Development Application

Pursuant to Section 80(3) of the Act, notice is given that Development Application No. **337/17** proposing change of use of “studio” to use as a detached dual occupancy development on land described as **11 Cowdroy Avenue, Cammeray** has been determined by Council by the granting of deferred commencement consent subject to the conditions below. An index of conditions is also attached on the last page of this Notice.

This consent shall not operate until the following deferred commencement conditions have been satisfied:-

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 6 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 6 months of the date of the grant of this consent this consent will lapse in accordance with Section 95(6) of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under clause 95(6) of the Environmental Planning and Assessment Regulation 2000, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant’s evidence is produced to it, the consent authority is, for the purposes only of section 97 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

AA. Deferred Commencement Conditions

Landscape Plan

AA1. A comprehensive Landscape Plan (as per Council’s DA requirements on its website and DA form, including selected species and surface treatments) must be submitted to Council’s satisfaction and for its approval. This Plan is to detail the treatment of all areas of private open space and proposed screening treatment between the two dwellings.

(Reason: To ensure residential amenity)

Obscure Glazing and Privacy Screens

AA2. Details of the proposed privacy screens and/or fixed, obscure glazing that are to be placed on the above ground level northern and western elevations of the southern-most dwelling are to be submitted to Council's satisfaction and for its approval.

(Reason: To ensure an adequate level of privacy is provided to the adjoining property located at 9 Cowdroy Avenue, Cammeray.)

Pool Access

AA3. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the barrier is to conform to the requirements of the applicable Australian Standard. Plans and specifications complying with this condition must be submitted to Council for approval.

(Reason: To ensure the safety of children and make applicant aware of the need to comply with applicable pool fencing legislation)

BASIX Certificate

AA4. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 862944S for the development are fulfilled.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Bicycle Storage and Parking

AA5. The bicycle storage area to accommodate a minimum of 1 bicycle shall be provided for each dwelling on the site. Bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. Details are to be provided to Council for approval.

(Reason: To promote and provide facilities for alternative forms of transport)

Garbage and Recycling Facilities

AA6. Adequate provision must be made for the storage of waste and recyclable material generated by the dwellings. Details are to be provided to Council for approval.

(Reason: To ensure the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

Building Code of Australia

AA7. Any required building work must be carried out in accordance with the provisions of the Building Code of Australia. A certificate of compliance from an appropriately accredited certifier shall be submitted to Council for notation.

Note: The proposed development is located within 900mm setback of the southern boundary. As such, any part of the dwellings external wall within 900mm of the boundary must achieve an FRL 60/60/60. Also, the eaves, fascia and roofing material within 900mm of the southern boundary must be constructed from non-combustible material.

If the building is non-compliant in this regard, then a construction certificate will be required for this work.

(Reason: Prescribed - Statutory)

Upon satisfaction of the deferred commencement conditions, the following conditions apply:

A. *Conditions that Identify Approved Plans*

A1. Development in Accordance with Plans/documentation (include all associated reports with specify Issue reference).

Drawings titled Holmes Studio Residence numbered as follows:

- A. 1. Site Plan, 2. Floor Plans, 3. East Elevation and 4. West Elevation, dated 27 August 2017, drawn by unknown, unissued, and received by Council on 25 September 2017; and
- B. Additional drawing titled 11 Cowdroy Avenue, Cammeray Amenities Landscaped, Site Coverage and Unbuilt Areas, drawn by unknown, unissued, and dated 22 December 2017

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

Plans on Site

A2. A copy of all stamped approved plans, specifications and documents must be kept on site at all times so as to be readily available for perusal by any officer of Council.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

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

DATE OF DETERMINATION:

DATE FROM WHICH CONSENT OPERATES: DEFERRED

DATE CONSENT LAPSES:

Notes

- (a) Council is always prepared to discuss its decisions, and in this regard please do not hesitate to contact Lindsey Dey. 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. Any such changes warranting a State Environmental Planning Policy No. 1 objection (where no objection was previously required) may not be able to be determined under Section 96 of the Act but may need to be subject of a separate Development Application.

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 Section 81A(2)(b) 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**

Prior to the installation of any telephone cabling contact is to be made with Construction Research Australia Pty Ltd on telephone 1800 180 118 or Sydney 9428 1254.

(h) **Dial before you dig**

Before you dig call “Dial before you dig” on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and the distance to the nearest cross street) for underground utility services information for any excavation areas.

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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