

**Original signed by Susanna Cheng on 1/6/2018**  
**Date determined 25/5/2018**  
**Date operates 1/6/2018**  
**Date lapses 1/6/2023**

Ionic Management  
C/- Chris Ryan  
GPO Box 3877  
SYDNEY NSW 2001

D126/18  
SMC1 (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 4.18 of the Act, notice is given that Development Application No. **126/18** proposing **subdivision of approved mixed use development into 2 x Torrens Title Stratum Lots** on land described as **101-111 Willoughby Road, 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 subdivision plans being prepared in accordance with Plan of Subdivision, Sheets 1-15 (Issue H), dated 3 May 2018 and drawn by Jason Raic (surveyor's reference 42193DP), and received by Council on 4 May 2018, except where amended by the following conditions:.

(Reason: Statutory)

**Atchison Street**

A2. Any reference to "Atchinson Street" in the plans shall be changed to Atchison Street.

(Reason: Correct street naming)

***J. Prior To the Issue of Any Subdivision Certificate (Land/ Torrens/ Stratum)***

**Registered Plans (Land/Torrens/Stratum)**

J1. The applicant must submit to Council's documentary evidence that the subdivision has been registered and the lot(s) exists. The use of the premise must not commence until the documentary evidence has been submitted to and approved by Council.

(Reason: To ensure that the allotments of land are created prior to the commencement of the approved use.)

**Subdivision Certificate**

J2. A subdivision certificate that authorises the registration of a plan of subdivision at the NSW Land and Property Information Office must be obtained. The following must be submitted to Council with any application for a Subdivision Certificate:

- 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;
- 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); and
- e) All other information required by the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

**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**

- J3. A section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the release of a subdivision certificate.

The Section 73 Certificate must be submitted to the certifying authority or North Sydney Council with the documentation to enable the issue of the Strata Certificate.

Notes:

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](http://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.

(Reason: To ensure compliance with Sydney Water requirements)

### **Services within Lots**

- J4. A report must be provided by a Registered Surveyor certifying 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. The report must be submitted to the Certifying Authority for approval prior to the issue of any Subdivision Certificate.

(Reason: To ensure adequate servicing of the development)

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

- J5. All easements, rights-of-way, right- of-carriageway, and restrictions-as-to-user as indicated on the plans submitted with the application for the Subdivision Certificate must be registered on the title of the relevant lots.

The following additional easements/ rights-of-way/restrictions, naming North Sydney Council as the sole authority empowered to release or modify the same must be registered on the title of the relevant lots: -

- a) As referred to in Condition **G21 Covenant & Restriction (Stormwater Control System)** of Development Consent No.327/15;
- b) As referred to in Condition **G22 Creation of Easements – Public Plaza and Zig Zag Lane** of Development Consent No.327/15;

- c) As referred to in the **Planning Agreement** in association with Development Consent No.327/15 and registered on title as AK661081F, and as indicated in Schedules 1, 2, 3, 4 & 5 of this document.

(Reason: To ensure proper management of land)

### **Section 88B Instrument**

J6. A Section 88B Instrument and 1 copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for the following Easements, Rights-of-Way and Restrictions-as-to-User:

- a) As referred to in Condition **C38** *On-Site Stormwater Detention* of Development Consent No.327/15;
- b) As referred to in Condition **C39** *Pump-Out System Design for Stormwater Disposal* of Development Consent No.327/15;
- c) As referred to in Condition **G21** *Covenant & Restriction (Stormwater Control System)* of Development Consent No.327/15;
- d) As referred to in Condition **G23** *Covenant on Title – Restriction in Height Over Publicly Accessible Areas* of Development Consent No.327/15; and
- e) As referred to in Condition **C33** *Stormwater Management and Disposal Design Plan – Construction issue detail* of Development Consent No.327/15.

The instrument creating the restrictions, easements and covenants under the provisions of Section 88B required by these conditions of consent must be lodged for registration with the plan of subdivision. North Sydney Council must be the prescribed authority in the Instrument whose consent is required to release, vary or modify the burdens/benefits

Proof of registration of the restrictions, easements and covenants under Section 88B must be provided to Council within 28 days of registration of the plan of subdivision.

(Reason: To create legal entitlements with the subdivision, as required)

### **Section 88E Instrument – Public Positive Covenant**

J7. A Section 88E Instrument pursuant to the *Conveyancing Act* 1919 in registrable form and 1 copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and Section 88E Instrument are to provide for:

- a) As referred to in Condition **G21 Covenant & Restriction (Stormwater Control System)** of Development Consent No.327/15; and
- b) As referred to in the **Planning Agreement** in association with Development Consent No.327/15 and registered on title as AK661081F, and as indicated in Schedules 1, 2, 3, 4 & 5 of this document.

The instrument creating the public positive covenant under the provisions of Section 88E required by these conditions of consent must be lodged for registration with the plan of subdivision. Proof of registration of the restrictions, easements and covenants under Section 88E must be provided to Council within 28 days of registration of the plan of subdivision.

(Reason: To create legal entitlements with the subdivision, as required)

#### **Release of Subdivision Certificate**

- J8. A Subdivision Certificate must not be issued until all conditions of this consent have been satisfied and the Final Occupation Certificate has been issued for the building.

(Reason: To ensure that the development is completed to an acceptable standard prior to registration)

#### **Building and Unit Numbering**

- J9. Prior to issue any Subdivision Certificate, 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 property addresses that will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard (AS/NZS 4819:2011).

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 Property Addressing 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 Susanna Cheng. However, if you wish to pursue your rights of appeal in the Land and Environment Court pursuant to Section 8.7 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 4.55 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 4.55 of the Environmental Planning & Assessment Act.

(c) Section 8.2 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 6.3 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 6.6 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 6.6 (2) (a) 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](http://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](http://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](http://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  
DAVID HOY  
TEAM LEADER (ASSESSMENTS)



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