

Original signed by Susanna Cheng on 26/6/2018
Date determined 21/6/2018
Date operates 26/6/2018
Date lapses 26/6/2023

Bridging Hope Charity Foundation
C/- Ariel Zhang
Level 1, 63-65 Chandos Street
ST LEONARDS NSW 1585

D83/18
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. **83/18** proposing **change of use of Level 2 (middle habitable level of the building) to business premises (artists' studios); hours of operation 8am to 6pm Monday to Saturday** on land described as **83-85 Chandos Street, St Leonards** 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 following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Title	Drawn by	Received
A.01	A	Site Plan	Trina Day	27 March 2018
A.02	A	Level Two	Trina Day	27 March 2018

(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 (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

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)

Fire Safety Upgrade

A3. Prior to commencement of the approved use, works involving the upgrading/installation of essential fire safety measures, including the items listed in the Fire Safety Schedule below, based upon information contained within the Final Fire Safety Certificate dated 12 June 2018 prepared by Glen Hughes, are to be fully completed.

Fire Safety Schedule		
Item No.	Measures	Standard of performance
1	Smoke detection and alarm system	NCC BCA 2016, Specification E2.2a, Clause 4 & AS:1670.1
2	Emergency lighting	NCC BCA 2016, Clauses E4.2, E4.4 & AS: 2293.1-2005
3	Exit signs	NCC BCA 2016, Clauses E4.5, E4.8 and AS2293.1-2005
4	Fire Doors	NCC BCA 2016, Specification C3.4, Clause C2.12, C3.8, C3.11 & AS:1905.1-2015
9	Portable fire extinguishers	NCC BCA 2016, Clause E1.6 & AS: 2444 - 2001

A **fire safety schedule** and **final fire safety certificate** (as specified in clauses 168 to 174 of the Environmental Planning and Assessment Regulation 2000) must be issued prior to commencement of the approved use.

A report from an appropriately qualified person in relation to fire safety and the Building Code of Australia, certifying that the fire upgrading works have been completed and indicating all required essential fire safety measures have been installed and verified, must be submitted to the Certifying Authority for approval prior to commencement of the approved use.

Note: The requirement to undertake physical building works in relation to the installation/upgrade of essential fire safety measures in the building constitutes building work and as such will necessitate obtaining a Construction Certificate, appointing a Principal Certifying Authority and obtaining an Occupation Certificate (pursuant to section 81A and 109M of the EP&A Act).

(Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety)

Building Work

- A4. Any building works associated with the development are limited only to those works required for the purpose of fire safety upgrades as required under this Development Consent.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the above.

(Reason: To ensure compliance with the approved development)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

- F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F2. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F4. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Commencement of Works

- F5. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence the erection of the building.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Demolition

- F6. Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Hours of Operation

- I1. The hours of operation are restricted to:

8am to 6pm Monday to Saturday

(Reason: To ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

No Entertainment

- I2. This approval is for artists' studios only, in the nature of work spaces and does not authorise operation as a gallery, or musical or other form of entertainment. A separate development consent is required for any proposed gallery use or entertainment.

(Reason: Clarification of terms of this consent and ensure compliance with relevant legislation)

Waste Collection

- I3. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the amenity of surrounding properties)

Delivery Hours

- I4. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

Maximum capacity

- I5. A maximum number of five (5) artists are permitted in the premises at any one time.

(Reason: To clarify consent)

Security

- I6. Secure access is to be provided to the premises at all times, by means of intercom, pin number, key card, and/or similar.

(Reason: Safety and security)

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.

(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
DAVID HOY
TEAM LEADER (ASSESSMENTS)

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