

Original signed by Geoff Mossemear **on** 23/8/18

Date determined: 23/8/18

Date operates: 23/8/18

Date lapses: 23/8/23

Development Consent No. 53/18

Notice of Determination

Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”)
Clause 100 of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)

Applicant’s Name

Emmanuel E Chatzinikolaou

Land to which this applies

115B Kurraba Road, Kurraba Point
Lot No.: A, DP: 354150

Proposal

Use premises as neighbourhood shop with ancillary take away cake and coffee function.

Determination of Development Application

Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, approval has been granted subject to conditions in the notice of determination.

Reason for approval

The development application has been assessed against all applicable environmental planning instruments and was found to be generally satisfactory, including in relation to the North Sydney LEP 2013 and North Sydney DCP 2013.

The development application has taken into account community views and adequately addresses the concerns raised in submissions, will not result in any unreasonable adverse effect on the local built and natural environment and will not result in any unreasonable adverse social or economic impact.

The development application would promote the orderly and economic use and development of land and its approval is in the public interest.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved.

Date from which this Consent operates

23 August 2018

How were community views taken into account

The owners of adjoining properties and the Kurraba Precinct were notified of the proposed development on 16 March 2018. The notification resulted in six submissions which were addressed in the delegated report.

Period of Consent

Subject to Section 4.20 of the Act, this consent becomes effective and operates from 23 August 2018. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To enjoy the benefits of this consent, works must physically commence onsite by 23 August 2023.

Review of determination and right of appeal

Within 6 months after the date of determination, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. If a review is contemplated, it should be lodged within two months of the date of this determination to enable the six month period, which includes Council's review to be met.

Plans endorsed by the consent authority

Plan No.	Issue	Title	Drawn by	Received
A03	C	Ground floor -operation plan	DARc Studio	5 July 2018

Endorsed for and on behalf of North Sydney Council

**GEOFF MOSSEMENEAR
EXECUTIVE PLANNER**

23 August 2018
Date of Endorsement

(i) Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 80 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 79C of the Act.

(ii) Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or ***AS/NZS*** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

NCC means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Council.

Court means the Land and Environment Court.

Local Native Plants means species of native plant endemic to North Sydney LGA.

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act 1989*.

PCA means the *Principal Certifying Authority* under the *Act*.

Principal Contractor for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

Professional Engineer has the same meaning as in the *NCC*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

NSLEP 2013 means *North Sydney Local Environmental Plan 2013*

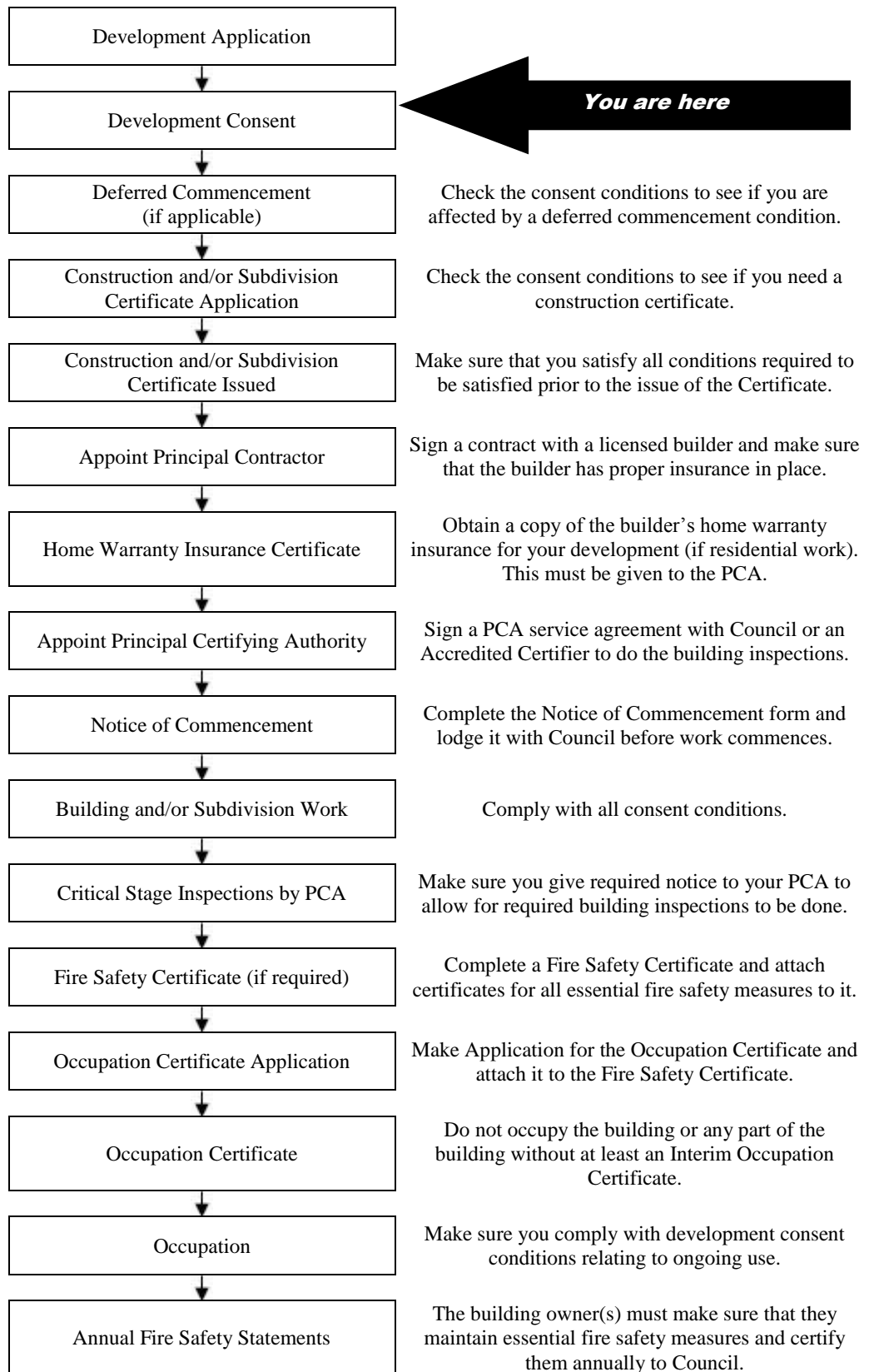
NSDCP 2013 means *North Sydney Development Control Plan 2013*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** – Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

(iii) The general steps after obtaining development consent from Council which need to be followed is provided below: -



Note: This guide is provided in good faith to assist applicants to understand the broad process. Not every statutory step may apply or has been covered given that each situation may vary in individual circumstances.

INDEX OF CONDITIONS

	Page No.
A. <i>Conditions that Identify Approved Plans</i>	
A1. Development in Accordance with Plans/documentation	1
A2. Change of use only, no intensification of use, no cooking and no alcohol	1
D. <i>Prior to the Commencement of any Works (and continuing where indicated)</i>	
D1. Cleanliness and Maintenance of Food Areas	1
D2. Garbage and Recycling Facilities	2
D3. Storage on Lower Level	2
I. <i>On-Going / Operational Conditions</i>	
I1. Hours of Operation	2
I2. Daily Cleaning	3
I3. Waste Collection	3
I4. Shop Premises Registration	3

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
A03	C	Ground floor -operation plan	DARc Studio	5 July 2018

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

Change of use only, no intensification of use, no cooking and no alcohol

- A2. This consent is for a change of use to a Neighbourhood Shop with ancillary take away food and hot beverages function only. There shall be no grease traps installed, no cooking on site, and no alcohol is to be served or consumed at the premises.

Neighbourhood shop means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

(Reason: To clarify the use)

D. *Prior to the Commencement of any Works (and continuing where indicated)*

Cleanliness and Maintenance of Food Areas

- D1. To ensure that adequate provision is made for the cleanliness and maintenance of all food areas, all building work in connection with the occupation or use of the premises for the preparation and storage of food shall be designed and carried out in accordance with the requirements of: -

- a) the Food Act 2003;
- b) the Food Regulation;
- c) the relevant Australian Standards;
- d) Council's Food Premises Code;
- e) Sydney Water Corporation - Trade Waste Section;
- f) the Protection of the Environment Operations Act and associated Regulations; and
- g) the Building Code of Australia.

Plans and specifications which comply with this condition must be submitted Council.

(Reason: To ensure compliance with acceptable standards for food premises established under environmental health and safety legislation)

Garbage and Recycling Facilities

D2. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. Plans which comply with this condition must be submitted to Council for approval.

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

Storage on lower level

D3. The lobby room directly off the toilet compartment (lower level) must not be used for the storage of food, or items intended to come into direct contact with any food.

(Reason: To ensure compliance with acceptable standards for food premises)

I. On-Going / Operational Conditions

Hours of Operation

I1. The hours of operation are restricted to:

Hours of Operation - Monday to Friday: 7:00 am – 7.00 pm. Seven days

Deliveries to and servicing of the premises is to be within the operating hours.

Upon expiry of the permitted hours:

- (a) all service must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following 15 minutes.

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

Daily Cleaning

- I2. The proprietor/operator is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish which may be left on the subject premises, site or immediately adjacent area is picked up and placed in the proprietor's/operator's rubbish bins.

(Reason: To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build up of waste material)

Waste Collection

- I3. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 7am on any day.

(Reason: To ensure the amenity of surrounding properties)

Shop Premises Registration

- I4. The shop premises must be registered with Council and NSW Food Authority prior to commencement of operation of the approved activity. Shop Premises Registration must be maintained at all times.

Note:

- a) Council registration forms can be found at <http://www.northsydney.nsw.gov.au>
- b) Notification is required to the NSW Food Authority under Standard 3.2.2 Division 2 Section 4 Notification. (see www.foodnotify.nsw.gov.au)

(Reason: To ensure compliance with environmental health legislation)