

Original signed by Luke Donovan on 27/2/2019
Date determined: 22/2/2019
Date operates: 27/2/2019
Date lapses: 22/2/2024

Development Consent No. 399/18

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

Gardner Wetherill & Associates

Land to which this applies

59-61 Ridge Street (also known as 2/283 Miller Street), North Sydney
Lot No.: 26, SP: 63051

Proposal

Change of use of Lot 26 from a restaurant to an office for IT staff in connection with an existing educational establishment (Wenona School) and associated fitout works.

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 change of use from a restaurant to an office for IT staff in connection with an existing educational establishment (Wenona Street) is permissible in the B4 Mixed Use zone. The change of use will have a residual impact on the existing restaurant within Lot 27 as this change of use will limit the size of the restaurant only to Lot 27. It is therefore recommended that the number of patrons be reduced to 42. The hours of operation for the restaurant remain as that approved under the previous consent being DA No. 26/13.

A Building Information Certificate will need to be lodged for the new wall that was constructed between Lots 26 and 27.

Date from which this Consent operates

27 February 2019

How were community views taken into account in making the decision

The application was notified to surrounding property owners between 14 December 2018 and 18 January 2019. No submissions were received.

Period of Consent

Subject to Section 4.20 of the Act, this consent becomes effective and operates from 27 February 2019. 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 27 February 2024.

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.

Endorsed for and on behalf of North Sydney Council

DAVID HOY
TEAM LEADER ASSESSMENTS

27 February 2019
Date of Endorsement

(i) Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 4.16 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 4.15 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*

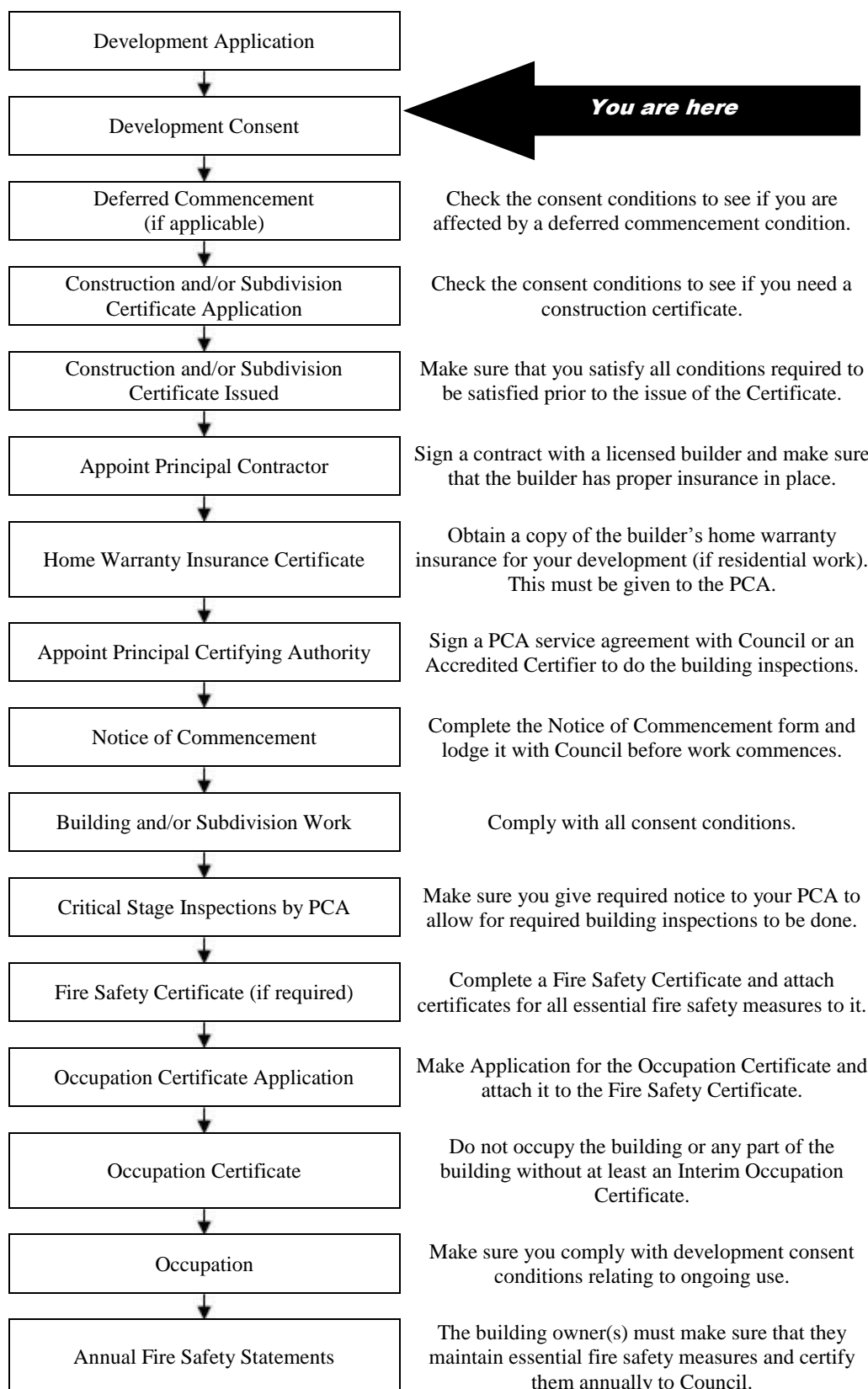
NSDCP 2013 means *North Sydney Development Control Plan 2013*

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.

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A. *Conditions that Identify Approved Plans*

Terms of consent

- A1. Approval is only granted under this consent for the change of use of Lot 26 in SP63051 from a restaurant to an office for IT staff in connection with the Wenona School.

No approval is granted under this consent for any building works within Lot 26.

(Reason: To clarify the terms of this consent)

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)

I. *On-Going / Operational Conditions*

Restaurant within Lot 27

- I1. The change of use of Lot 26 in SP63051 will result in a reduction in the number of patrons within the adjoining restaurant (Lot 27 in SP63051) to 42. The hours of operation for the restaurant (Lot 27 in SP63051) must remain as that approved under the previous consent being DA No. 26/13.

(Reason: The consent involves a change of use of Lot 26 in SP63051 from a restaurant to an office for IT staff in connection with Wenona School. The change of use of Lot 26 in SP63051 will mean that the restaurant will be reduced in patron numbers.)

Signage

- I2. No consent is given or implied under this development application for any new external business identification signage.

(Reason: To ensure consistency with the terms of this consent.)

Use of the office

- I3. The office within Lot 26 in SP63051 must only be used to accommodate School staff undertaking School activities. including administrative, academic and support staff responsible for IT and other activities at the School. The office must not be used as a class room; however, children are permitted to visit from time to time for IT support.

(Reason: To ensure consistency with the terms of this consent.)

Maximum number of staff

- I4. The office within Lot 26 in SP63051 may accommodate a maximum of 10 staff at any one time.

(Reason: To ensure consistency with the terms of this consent)

Hours of Operation

- I5. The hours of operation are restricted to:

7.00am-8.00pm, Monday to Friday

(Reason: to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with other offices in the B4 mixed use zone)