

**Original signed by Robyn Pearson on 19/2/2019**

**Date determined: 13/2/2019**

**Date operates: 13/2/2019**

**Date lapses: 13/2/2024**

## **Development Consent No. 291/18**

### **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”)

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#### **Applicant’s Name**

Turnbull Planning International Pty Ltd

#### **Land to which this applies**

21 Barry Street, Neutral Bay  
Lot No.: B, DP: 180318

#### **Proposal**

Strata subdivision of existing residential flat building containing four apartments.

#### **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 proposed strata subdivision has been assessed against the North Sydney Local Environmental Plan 2013, the North Sydney Development Control Plan 2013 and the relevant State Planning Policies and found to be satisfactory in the site circumstances.

As the proposed strata subdivision would be likely to reduce the availability of affordable rental housing given that a portion would become owner-occupied, a condition is imposed requiring a financial contribution for the loss of eight affordable bed spaces. A condition requiring a resident relocation plan and implementation is also imposed to ensure to ensure orderly, timely and effective relocation of residents to alternative and suitable accommodation, should this be required.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and is therefore recommended for approval subject to conditions of consent.

**Date from which this Consent operates**

13 February 2019

**How were community views taken into account in making the decision**

The application was notified to Neutral and Bennet Precincts and surrounding neighbours between 7 December 2018 and 11 January 2019. No submissions were received.

**Period of Consent**

Subject to Section 4.20 of the Act, this consent becomes effective and operates from 13 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 13 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.

**Plans endorsed by the consent authority**

<b>Draft Strata Plan Titled:</b>	<b>Date</b>	<b>Drawn by</b>	<b>Received by Council</b>
Location Plan	18/07/2018	Stuart John Hildebrand	10/09/2018
Ground Floor	18/07/2018	Stuart John Hildebrand	10/09/2018
First Floor	18/07/2018	Stuart John Hildebrand	10/09/2018

**Endorsed for and on behalf of North Sydney Council**

ROBYN PEARSON  
TEAM LEADER ASSESSMENTS

13 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*

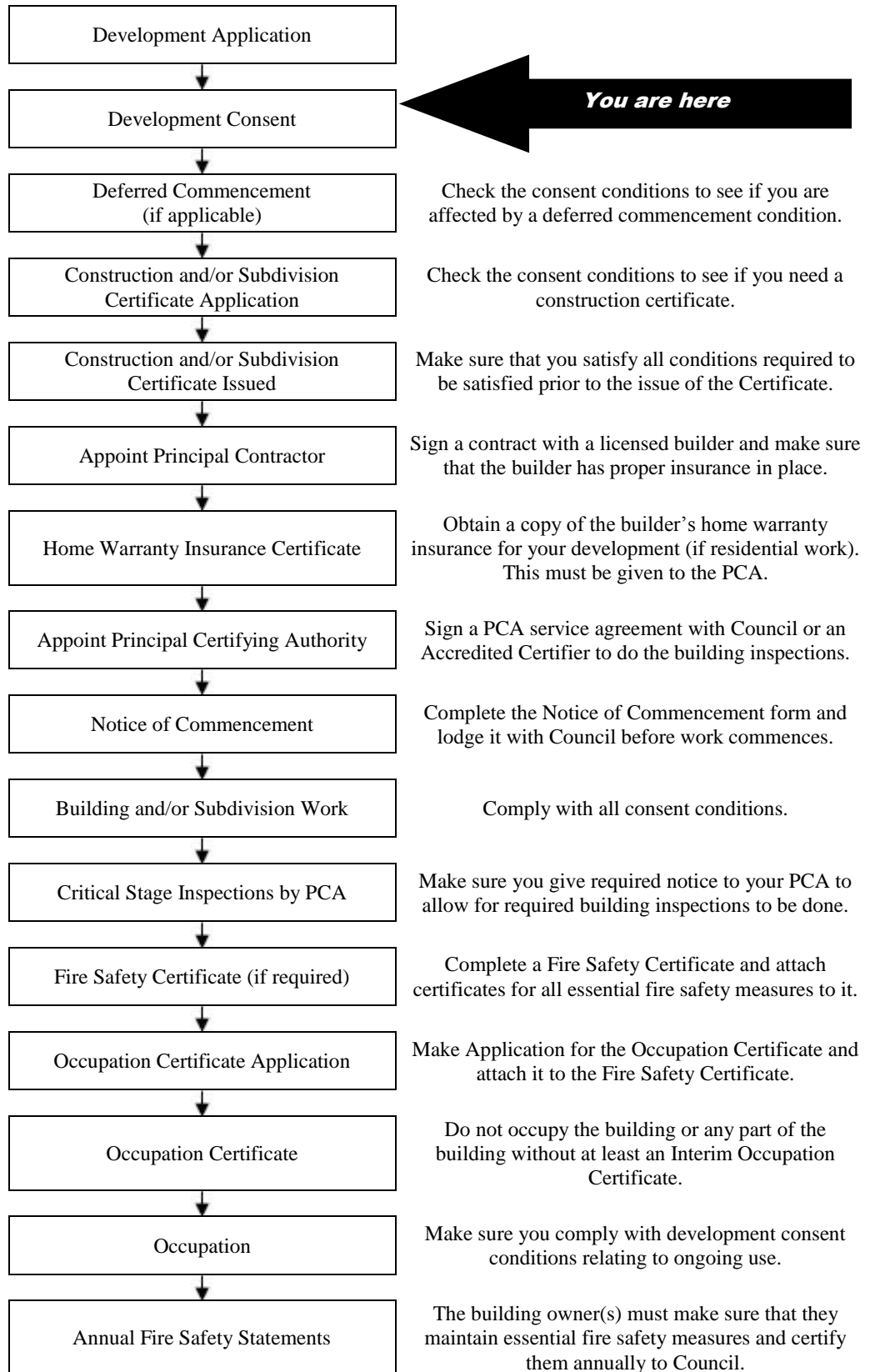
*NSDCP 2013* means *North Sydney Development Control Plan 2013*

*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***

**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.

<b>Draft Strata Plan Titled:</b>	<b>Date</b>	<b>Drawn by</b>	<b>Received by Council</b>
Location Plan	18/07/2018	Stuart John Hildebrand	10/09/2018
Ground Floor	18/07/2018	Stuart John Hildebrand	10/09/2018
First Floor	18/07/2018	Stuart John Hildebrand	10/09/2018

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

**K. *Prior to the Issue of any Strata Certificate***

**Strata Subdivision**

- K1. A Strata Certificate pursuant to the *Strata Schemes (Freehold Development) Act 1973*, that authorises registration of the strata plan, strata plan of subdivision or notice of conversion at NSW Land and Property Information Office must be obtained. If the Strata Certificate is obtained from an Accredited Certifier, other than the Council, the certifier is to provide Council with a copy of the endorsed Strata Certificate within 7 days of issuing the same, pursuant to the *Strata Schemes (Freehold Development) Regulation 2002*.

**NOTES:** For approval of the Strata Certificate by North Sydney Council, the following must be submitted to Council: -

- a) the original strata plans or strata plans of subdivision and administration sheets plus two (2) copies of each, and any original Instrument (including but not limited to any section 88B or 88E instruments) to be endorsed, all **enclosed in a protective cardboard tube** (to prevent damage during transfer);
- b) 2 additional copies of the strata plans or strata plans of subdivision and any relevant Instrument for submission to Council Customer Services and records department for electronic database scanning and copying;
- c) a completed *Subdivision or Strata Certificate Application* form together with payment of fee current at lodgement;
- d) written evidence that all applicable conditions of consent required to be satisfied, prior to issue of the Strata Certificate, have been satisfied. Council will check the consent conditions on the relevant consent(s). Failure to submit the required information will delay endorsement of the Strata Certificate, and may require payment of rechecking fees;

- e) **plans of subdivision and copies must not be folded; and**
- f) **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**

- K2. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

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:

1. Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92.
2. 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)

### **Building and Unit Numbering (Strata Subdivisions)**

- K3. Prior to issue of the Strata Certificate, the person acting upon this consent must apply to North Sydney Council and receive written confirmation of the allocated street address and unit numbers for the building and the approved strata allotments within the completed project. 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 within the strata scheme or street 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)



**Services within Lots**

- K4. 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)

**National Construction Code**

- K5. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

**Contribution for Affordable Housing**

- K6. Prior to the issue of any Strata Certificate, the proponent shall make a monetary contribution of **\$140,992.50** to North Sydney Council as a contribution towards providing affordable housing pursuant to Section 7.32(2) of the Environmental Planning & Assessment Act 1979, as calculate by clause 51 of State Environmental Planning Policy (Affordable Housing) 2009.

The contribution **MUST BE** paid prior issue of any Strata Certificate.

The above amount, will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

(Reason: To mitigate the loss of low-rental accommodation within the State)

**Extended Notice to Vacate**

- K7. Prior to the issue of any Strata Certificate, all tenants within the building are required to be notified in writing by way of an additional term on their lease agreement that the period to vacate has been increased to 90 days.

A clause must also be written into any contract for sale of a unit that reflects that the period to vacate for the current tenant is 90 days unless that unit has already been vacated.

(Reason: Pursuant to clause 51 (2)(d) of SEPP (Affordable Rental Housing) 2009 to assist any displaced tenants in finding suitable alternative accommodation.

### **Relocation of Displaced Tenants**

K8. Prior to the issue of any Strata Certificate, all tenants within the building are required to be notified in writing by way of an additional term on their lease agreements that they would be entitled to relocation in strict accordance with the terms of Council's Resident Relocation Plan, as set out below.

Council's Resident Relocation Plan is as follows:

- (a) Minimum 12 weeks' notice to vacate to residents; notice to provide full details of support mechanisms, including professional assistance to those determined to require it.
- (b) Needs assessment to be carried out by a qualified social worker with experience in housing issues (Assuming a vulnerable tenant(s) are identified, estimate 4 weeks part time for a typical boarding house in North Sydney, inclusive of liaising with relevant agencies); social worker to be engaged 5 working days prior to notice being given (to allow them to commence work on the day that notice is advertised).
- (c) Application of the Plan to all residents who apply, with provision of assistance based on individual needs as assessed;
- (d) Liaison with the Department of Housing (Dee Why office) and LINK Housing Lower North Shore in support of residents experiencing difficulties in relocating, and use of a social worker to provide or coordinate such assistance;
- (e) Liaison between the social worker and the NSW Tenants Advice and Advocacy Service to provide assistance to residents for whom the first language is not English;
- (f) Information to residents, including lists of comparable accommodation, and assistance in negotiations with real estate agents where reasonably possible, and supportive references;
- (g) Practical assistance to be given to those residents who have been assessed as not requiring any support from other agencies to manage but who may require practical assistance such as transport, bond assistance, and the like;
- (h) Payment of removal costs and bonds for new accommodation and the first months' rent for vulnerable tenants (up to \$940 per couple); may be waived if costs for Social Worker exceed \$5,000
- (i) Commencement, interim progress, and completion dates for implementation of the Plan, in relation to estimated site preparation or construction start date;

- (j) Advising Council's Community Development Department of commencement, interim progress, and final advice on the implementation of the Plan.

The Relocation Plan must be implemented to the written satisfaction of Council's Community Development Department. No relocation shall commence until Council's Community Development Department has provided written confirmation that the Resident Relocation Plan is satisfactory.

The preparation and implementation of a Resident Relocation Plan for any tenant/s displaced through the sale of any unit is to be at no cost to Council. Any costs associated with the engagement/employment of a recruitment consultant and/or social worker, and any financial/monetary assistance to residents provided under the Plan, is to be borne by the applicant at no cost to Council.

(Reason: to ensure orderly, timely and effective relocation of residents to alternative and suitable accommodation, should this be required, and to ensure the costs of mitigating the loss of affordable housing supply resulting from the development are borne by the applicant)

### **Fire Safety Upgrade**

- K9. Prior to issue of any Strata Certificate, works involving the upgrading/installation of essential fire safety measures (as recommended in the BCA Compliance Report from All State Building Surveying dated 12 June 2018) are to be fully completed.

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 with the Construction Certificate and Occupation Certificate respectively.

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 as functioning in accordance with the above named report, must be submitted to the Certifying Authority for approval prior to the issue of any Strata certificate.

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 sections 6.7 and 6.9 of the EP&A Act.

(Reason: To meet legislative requirements and ensure adequate provision is made for fire safety in the building)