

Original signed by Kim Rothe on 4/7/2019

Date determined: 3/7/2019

Date operates: 4/7/2019

Date lapses: 4/7/2024

North Sydney Council
Attention: Albert Lo
200 Miller Street
NORTH SYDNEY NSW 2060

D277/18
RF3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION – Approval**

Development Application Number: 277/18

Land to which this applies:

Level 2, 2-20 Ernest Street, Crows Nest
Lot No.: 1, DP: 785343

Applicant:

North Sydney Council

Proposal:

The extension of Kidsnest Occasional Care Centre's weekday operating hours to 6pm, and to allow for ancillary uses such as toddlers' parties on weekends between 9am and 4pm.

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.

Date of Determination:

3 July 2019

Reason for approval:

The Panel is satisfied the extended use of community facility is appropriate and it is noted with a trial period. This will provide an opportunity to monitor any adverse impacts.

Consent to operate from:

4 July 2019

Consent will lapse on:

4 July 2024

Period of Consent

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite by 4 July 2024.

How community views were taken into account:

The adjoining properties were notified about the proposed development for the period between 7 June 2019 and 21 June 2019. No submissions were received.

Review of determination and right of appeal:

Within 6 months after the date of notification of the decision, 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. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Plans endorsed by the consent authority – please refer to condition A1.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER ASSESSMENTS

(i) Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 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 4.17 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.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

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.

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

Hours of operation for ancillary use for children's parties – trial period

- F1. The approved ancillary use for children's parties may operate between 9.00am-4.00pm: on Saturdays and Sundays for a trial period of 12 months from the date of issue of this consent. Council must be informed in writing of the date of commencing the trial period.

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Kidsnest Occasional Care Centre - Hours of Operation

- F2. That the Kidsnest Occasional Care Centre operates on weekdays only between 8.30 am and 6.00pm.

(Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines and to protect the residential amenity of the neighbours)

Ancillary Use of Centre

- F3. Ancillary uses of the centre be limited to children's parties, to be operated in conjunction with Kidsnest, staff in accordance with the plan of management attached to this report to be approved by the Management Committee and contribute to Kidsnest's objectives while not being a separate commercial activity.

(Reason: To ensure the performance of the operation in relation to compliance with development consent conditions.

No Child Care on Weekends

- F4. Child care will not be provided on weekends.

(Reason: To ensure the performance of the operation in relation to compliance with development consent conditions.)

I. On-Going / Operational Conditions

Age of Attendees

I1. That the ages of the attendees of the children's parties be limited to 0-5 years.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Maximum Number of Attendees

I2. That the attendees of the children's parties be limited to 15 children.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Weekend Supervision Management Plan

I3. Kidsnest staff will supervise the weekend use under the guidance of a Management Plan.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Prohibition of Amplified Music, BBQs and Alcohol

I4. Kidsnest staff will, at all times, supervise use of the centre indoors and playground by party hosts to prohibit amplified music, BBQs and the serving of alcohol.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Waste Disposal

I5. Hirers for children's parties will be given access to Kidsnest toilets and change table but required to take their disposable waste with them.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)