

Original signed by	byn Pearson	on	5/10/2021
Date determined:			1/10/2021
Date operates:			1/10/2021
Date lapses:			1/10/2026

Lucie Austin
14 Tobruk Avenue
CREMORNE NSW 2090

D202/21
RT (CIS)

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

Development Application Number: 202/21

Land to which this applies: 14 and 16 Tobruk Avenue, Cremorne
Lot No.: 7 DP: 23880

Applicant: Lucie Austin

Proposal: Re-configuration and re-subdivision of two allotments and creation of new easements

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: 1 October 2021

Reasons for Approval

The development application 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.

The proposed subdivision is permissible with consent from Council as set out within Clause 2.6 in NSLEP, and the allotments would comply with the minimum lot size requirements specified within NSLEP.

The subdivision would achieve the objectives of the zone by providing lots that have both pedestrian and vehicular access to public roads. Both lots would still be substantial with no fragments of land remaining to prevent future development. There would be no loss of natural landforms and/or canopy trees to maintain the verdant character of the locality. Furthermore, the size and shape of the new lots would also minimize any impacts to adjoining properties in terms of overshadowing, privacy and/or view loss.

The non-compliance with DCP unbuilt upon area requirement is considered to be acceptable because the proposal does not involve any building works and the calculation is based on existing structures within the subject properties. In addition, the proposal would not the quality of landscaping settings within the subject properties and the locality.

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.

Consent to operate from:	1 October 2021
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Consent will lapse on:	1 October 2026
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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 [Date consent lapses].

How community views were taken into account:

The subject application was notified to adjoining properties and the Willoughby Bay Precinct inviting comment between 23 July and 6 August 2021. The notification of the application has attracted no submissions.

Review of determination and right of appeal:

Within six 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

5 October 2021

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)

(i) **Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 ("the *Act*") and the provisions of the Environmental Planning and 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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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.	Title	Drawn by	Received
Sheet 1 of 1	Plan of Subdivision of Lots 7 and 8	Gary John Skow	17 May 2021

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

No Approval for Construction of New Buildings/Structures

- A2. No approval is given or implied for the construction of a new structures/buildings including, but not limited to garage and/or secondary dwelling within the subdivided allotments.

(Reason: To clarify the terms of this consent).

J. Prior To the Issue of Any Subdivision Certificate (Land/Torrens/Stratum)

Registered Plans (Land/Torrens/Stratum)

- J1. The applicant must submit to Council's documentary evidence that the subdivision has been registered and the lot(s) exists. The use of the premise must not commence until the documentary evidence has been submitted to and approved by Council.

(Reason: To ensure that the allotments of land are created prior to the commencement of the approved use.)

Subdivision Certificate

- J2. A subdivision certificate that authorises the registration of a plan of subdivision at the NSW Land and Property Information Office must be obtained. The following must be submitted to Council with any application for a Subdivision Certificate:
- the original plans of subdivision and administration sheets plus two (2) copies of each, and any original 88B instrument to be endorsed, all **enclosed in a protective cardboard tube** (to prevent damage during transfer);
 - two additional copies of both the plans and any 88B instrument for submission to Customer Services and records for electronic database scanning and copying;
 - Application for Subdivision Certificate form duly completed with payment of fee current at lodgement;

- d) Written evidence that all applicable conditions of consent to be satisfied, prior to issue of the Subdivision Certificate, have been satisfied (including submission of all required certificates and the like); and
- e) All other information required by the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

NOTES:

- 1) Council will check the consent conditions on the relevant subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision and may require payment of rechecking fees.
- 2) **Plans of subdivision and copies must not be folded.**
- 3) **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 Compliance Certificate

- J3. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the release of a subdivision certificate.

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: Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site <http://www.sydneywater.com.au/SW/plumbing-building-developing/developing/providers/lists/index.htm>, or telephone 13 20 92.

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)

Services within Lots

- J4. 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)

Easements, Rights-of-Way and Restrictions-as-to-User

- J5. All easements, rights-of-way, right-of-carriageway, and restrictions-as-to-user as indicated on the plans submitted with the application for the Subdivision Certificate must be registered on the title of the relevant lots.

The following additional easements/rights-of-way/restrictions, naming North Sydney Council as the sole authority empowered to release or modify the same must be registered on the title of the relevant lots:

- a) Easement for drainage 0.61 m wide - Vide transfers J868904 and H500426
- b) Easement for drainage 0.61 m wide - Vide transfer G849992
- c) Proposed easement for services 0.5 m wide
- d) Proposed right of footway 1 m wide

(Reason: To ensure proper management of land)

Section 88B Instrument

- J6. A Section 88B Instrument and one copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for:

- a) Easement for drainage 0.61 m wide - Vide transfers J868904 and H500426
- b) Easement for drainage 0.61 m wide - Vide transfer G849992
- c) Proposed easement for services 0.5 m wide
- d) Proposed right of footway 1 m wide

The instrument creating the restrictions, easements and covenants under the provisions of Section 88B required by these conditions of consent must be lodged for registration with the plan of subdivision. North Sydney Council must be the prescribed authority in the Instrument whose consent is required to release, vary or modify the burdens/benefits.

Proof of registration of the restrictions, easements and covenants under Section 88B must be provided to Council within 28 days of registration of the plan of subdivision.

(Reason: To create legal entitlements with the subdivision, as required)

Building and Unit Numbering

- J7. Prior to issue any Subdivision Certificate, the person acting upon this consent must apply to North Sydney Council and receive written confirmation of the allocated street address (house number) and unit numbers for the building. 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 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)