

Original signed by Antonia Stuart on 27/03/08

Date determined: 27/03/08

Date commences: 1/4/08

Date lapses: 1/4/11

David Morrow
Gelder
19-23 Bridge Street
PYMBLE NSW 2073

D67/08
JG1 (PDS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
ROADS ACT 1993, AND LOCAL GOVERNMENT ACT 1993 AS APPLICABLE**

Notice to Applicant of Determination of a Development Application

Pursuant to Section 81 of the Act, notice is given that Development Application No. **67//08** proposing strata subdivision of 22 new residential apartments on land described as **80 Gerard Street, Cremorne** was determined under delegated authority by the granting of consent subject to the conditions below. Where indicated, approval is also granted for works on public roads under the provisions of Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993.

A. *Conditions that Identify Approved Plans*

Development in Accordance with Plans

- A1. The development being carried out in accordance with Strata plans titled “sheet 1 of 6” to “sheet 6 of 6” (inclusive), dated 2 February 2007, drawn by John McPherson Reid of Clement & Reid Pty Ltd, received by Council 29 February 2008 and endorsed with Council’s approval stamp, except where amended by the following conditions.

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

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

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

J. *Conditions that must be complied with prior to the issue of any Strata Subdivision*

or Subdivision Certificate

Strata Subdivision

- J1. The Applicant shall apply for a strata certificate pursuant to the Strata Schemes (freehold) Act 1973, to enable lodgement of the strata plan at NSW Land and Property Information Office. If the strata certificate is obtained from an accredited certifier, 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.

IMPORTANT NOTES:

For endorsement of the strata certificate by North Sydney Council, the applicant must submit the following:

- a) The original strata plans 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).
- b) 2 additional copies each of the strata plans and admin. sheets, and 88B instrument for submission to Council Customer Services and records department for electronic database scanning and copying.
- c) Application for Subdivision Certificate (strata) 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 Strata Certificate, have been satisfied (including certificates and the like).

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. **Plans of subdivision and copies must not be folded. 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 - Strata

- J2. The Section 73 Sydney Water Certificate obtained for the development must be submitted to the accredited certifier or North Sydney Council with the documentation to enable the issue of the strata certificate.

(Reason: To ensure compliance with Sydney Water requirements)

Release of Strata Certificate

- J3. The strata certificate to enable the lodgement of the strata plan at NSW Land and Property Information shall not be issued until bounding walls, floors and ceilings between proposed strata lots have been constructed relating to the approved building plans.

(Reason: To ensure that the registered strata plan relates to approved development)

Allocation of Parking and Visitor Parking

- J4. Car parking provided shall only be used in conjunction with the units and tenancies contained within the development, and shall be individually allocated to residential units as part of their unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan, and under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.

(Reason: Provision of adequate on site parking facilities to service the development)

Building and Unit Numbering (Strata Subdivisions)

- J5. 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 numbers that will be recorded in Council records and must be displayed at the property in accordance with the provisions of **AS/NZS 4819:2003 – Geographic information – Rural and urban addressing**.

To assist Council when applying for strata unit or house number allocations, 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 House Numbering Policy. Proper building and unit numbering also assists emergency services in readily locating properties)

DATE OF DETERMINATION:

DATE FROM WHICH CONSENT OPERATES:

DATE CONSENT LAPSES:

Council further resolved that pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, it vary the provisions of Section 95(1) and advise the applicant that the consent will lapse 3 years from the date from which the consent operates, in accordance with Section 83.

ADVISINGS

Notes

- (a) Council is always prepared to discuss its decisions, and in this regard please do not hesitate to contact James Groundwater. However, if you wish to pursue your rights of appeal in the Land and Environment Court pursuant to Section 97 of the Act, you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing, and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (b) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a modification under Section 96 of the Environmental Planning & Assessment Act 1979. Any such changes warranting a State Environmental Planning Policy No. 1 objection (where no objection was previously required) may not be able to be determined under Section 96 of the Act but may need to be subject of a separate Development Application.

Please bear this in mind before preparing documentation in support of a Construction Certificate application. Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 96 of the Environmental Planning & Assessment Act.

- (c) Section 82A of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within twelve (12) months *after receipt of this Notice of Determination*, together with payment of the appropriate fees. It is recommended that the applicant discuss any request for a review of the determination with Council Officers before lodging such a request.

- (d) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
- (i) Relevant approvals must be obtained under the provisions of Section 138 of the Roads Act, 1993 for any works on public roads which are not the subject of this consent.
 - (ii) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - (iii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - (iv) Council is to be notified at least two (2) days before the intention to commence building works, in accordance with Section 81A(2)(c) of the Act.
- (e) The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue necessary documentary evidence or certificate/s.

(f) **Sydney Water Requirements**

You are advised that any building works may also require prior approval from Sydney Water. Further details can be obtained from the Sydney Water website at www.sydneywater.com.au.

(g) **Telecommunications**

Prior to the installation of any telephone cabling contact is to be made with Construction Research Australia Pty Ltd on telephone 1800 180 118 or Sydney 9428 1254.

(h) **Dial before you dig**

Before you dig call "Dial before you dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and the distance to the nearest cross street) for underground utility services information for any excavation areas.

Council's officers can provide these services, and further information, including a copy of the terms of agreement and fee schedule, can be obtained by telephoning Council's Customer Service Centre on **9936 8471**.

Please note that all building work must be carried out fully in accordance with the development consent and conditions of approval and it is an offence to carry out unauthorised building work or building work that is not in accordance with Council's approval.

An offence under the Environmental Planning and Assessment Act 1979 and Regulations is subject to a penalty up to \$110,000 and \$11,000 respectively.

Council may also serve a notice and an order to require the demolition/removal of unauthorised building work or to require the building to be erected fully in accordance with the development consent.

On the spot penalties will be imposed for works which are carried out in breach of this consent, or without consent.

An amended development application is required to be submitted to and approved by Council, and a Construction Certificate is to be obtained from the Council or an Accredited Certifier, prior to commencement of any variations from the approved plans and conditions of approval.

DATE

Signature on behalf of consent authority
ANTONIA STUART
TEAM LEADER (ASSESSMENTS)