

CONSENT NO: N0037/16
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Applicants Name and Address:

Merivale Group
C/- City Plan Services
Level 1, 364 Kent Street
Sydney NSW 2000

Being the applicant in respect of Development Application **N0037/16**

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application **N0037/16** for:

The construction of a new pavilion structure within the existing outdoor terrace

At: **1 Kalinya Street, Newport (Lot 1 DP 72587)**

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with:

- **Architectural drawings prepared by Akin Creative, DA D01 issue A dated 22 January 2016 and DA M01, issue B, dated 15 March 2016;**
- **Stormwater Drainage Letter, prepared by Stewart McGready of Northern Beaches Consulting Engineers P/L, dated 20 January 2016;**
- **Conceptual Stormwater Management Plan, issue B, prepared by Stewart McGready of Northern Beaches Consulting Engineers P/L, dated 18 January 2016**
- **Geotechnical Risk Management Report, prepared by Crozier Geotechnical Consultants, dated 8 January 2016;**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent: **17 March 2016**

Mark Ferguson
GENERAL MANAGER

Per:

Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
3. Critical stage inspections are to be carried out in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
5. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. This consent is issued strictly in relation to the construction of a pavilion-style structure within the existing outdoor terrace. This consent does not authorise any other works or changes that may be shown on the approved plans, referenced in this consent.
2. This consent does not authorise any change or intensification of use. Specifically, this consent does not authorise the use of the pavilion structure for the purpose of a Bar,

Seafood Bar or any other sort of service area or food preparation area. With the exception of the south-eastern wall, no part of the structure or area beneath the structure is to be enclosed at any time.

3. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.
4. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Crozier Geotechnical Consultants are to be incorporated into the construction plans.
5. There shall be no damage to intertidal habitats including rocky shores, seagrass beds, salt marshes or mangroves.
6. In accordance with Pittwater Councils DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
7. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website.
8. No environmental weeds are to be planted on the site.
9. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
 - a. Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
 - b. Species listed from the Endangered Ecological Community
 - c. Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website.
10. No building materials or other materials are to be placed on Saltmarsh or other foreshore vegetation. Sediment is not to leave the site or enter areas of Saltmarsh or other foreshore vegetation, and the appropriate sediment fencing is to be installed.
11. No building materials or other materials are to be placed on foreshore / seagrass or other native vegetation. Sediment is not to leave the site or enter areas of seagrass or its habitat.
12. No noise nuisance shall be caused through the operation of the business or any plant or equipment at the premises. Noise generated from the premises must not exceed the limits as specified in the NSW Industrial Noise Policy.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building

Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.

2. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 - a. after excavation for, and prior to the placement of, any footings, and
 - b. prior to pouring any in-situ reinforced concrete building element, and
 - c. prior to covering of the framework for any floor, wall, roof or other building element, and
 - d. prior to covering waterproofing in any wet areas, and
 - e. prior to covering any stormwater drainage connections, and
 - f. after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

3. Construction works approved by this consent must not commence until:
 - a. Construction Certificate has been issued by a Principal Certifying Authority
 - b. a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c. at least 2 days notice, in writing has been given to Council of the intention to commence work.
4. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
5. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
6. Drainage plans including specification and details showing the site stormwater management are to be submitted to the Principal Certifying Authority. The drainage plans must be designed and implemented in accordance with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
2. The following facilities must be provided on the site:
 - a. toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and

- b. a garbage receptacle for food scrapes and papers, with a tight fitting lid.

Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.

3. All works within 5 metres of the existing trees to be retained including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.
4. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.
5. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
6. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
7. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
8. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.
9. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
10. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.

All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.

The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.

11. The site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
12. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to

underground services (stormwater, gas, sewer, electricity, etc:), and landscaping works within Council's Road Reserve.

13. No skip bins or materials are to be stored on Council's Road Reserve.
14. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - a. The builder's name, builder's telephone contact number both during work hours and after hours.
 - b. That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 - c. That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d. That no skip bins or materials are to be stored on Council's Road Reserve.
 - e. That the contact number for Pittwater Council for permits is 9970 1111.

E. Matters to be satisfied prior to the issue of an Occupation Certificate

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
3. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided.

4. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

F. Matters to be satisfied prior to the issue of Subdivision Certificate:

N/A

G. Advice:

1. Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act, 1979 (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
3. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
4. To ascertain the date upon which a consent operates, refer to Section 83 of the Environmental Planning and Assessment Act, 1979 (as amended).
5. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
6. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.