



ORANGE CITY COUNCIL

Development Application No **DA 49/2017(1)**

NA17/257

Container PR26657

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the *Environmental Planning and Assessment Act 1979*
Section 81(1)

Development Application

Applicant Name: Ms J Matthews
Applicant Address: 2 Blackwall Road
WOY WOY NSW 2256
Owner's Name: Bruce Kerr Pty Limited
Land to Be Developed: Lot 80 DP 1200262 - 36 Winter Street, Orange
Proposed Development: Subdivision (two lot residential) and Two Dwellings (attached)

Building Code of Australia building classification:

As determined by certifier

Determination

Made On: 3 May 2017

Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From: 3 May 2017

Consent to Lapse On: 3 May 2022

Terms of Approval

The reasons for the imposition of conditions are:

- (1) To maintain neighbourhood amenity and character.
- (2) To ensure compliance with relevant statutory requirements.
- (3) Because the development will require the provision of, or increase the demand for, public amenities and services.
- (4) To ensure the utility services are available to the site and adequate for the development.
- (5) To prevent the proposed development having a detrimental effect on adjoining land uses.
- (6) To minimise the impact of development on the environment.

Conditions

- (1) The development must be carried out in accordance with:
 - (a) **Drawings by DW & SL Baxter Pty Ltd. Dwg. Nos. 2171/1; 2171/2; 2171/3; 2171/4A; 2171/5; 2171/6; 2171/7; 2171/8A; 2171/9; 2171/10; 2171/11; 2171/12 dated 15/02/2017 (12 sheets)**
 - (b) statements of environmental effects or other similar associated documents that form part of the approval

as amended in accordance with any conditions of this consent.

Conditions (cont)

PRESCRIBED CONDITIONS

- (2) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- (3) A sign is to 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 site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.
- (4) 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 the Act, evidence that such a contract of insurance is in force is to be provided to the Principal Certifying Authority before any building work authorised to be carried out by the consent commences.
- (5) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and the licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- (6) Where any excavation work on the site extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.

Note: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.

TWO LOT SUBDIVISION

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (7) A 150mm-diameter sewer junction is to be constructed from Council's existing main to serve the proposed lot B. Prior to a Construction Certificate being issued engineering plans for this sewerage system are to be submitted to and approved by Orange City Council.

Conditions (cont)

Prior to the issue of a construction certificate (cont)

- (8) A water and soil erosion control plan is to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) for approval prior to the issuing of a Construction Certificate. The control plan is to be in accordance with the Orange City Council Development and Subdivision Code and the Landcom, Managing Urban Stormwater; Soils and Construction Handbook.

DURING CONSTRUCTION/SITWORKS

- (9) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (10) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.

The developer is to be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing the lots from Council's existing infrastructure. The developer is to be responsible for gaining access over adjoining land for services where necessary and easements are to be created about all water, sewer and drainage mains within and outside the lots they serve.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- (11) The payment of \$9,868.49 is to be made to Council in accordance with section 94 of the Act and the Orange Development Contributions Plan 2015 (LGA Remainder) towards the provision of the following public facilities:

Open Space and Recreation	1 additional lot @ \$3,367.49	3,367.49
Community and Cultural	1 additional lot @ \$678.23	678.23
Roads and Cycleways	1 additional lot @ \$5,220.22	5,220.22
Stormwater Drainage	1 additional lot @ \$315.14	315.14
Local Area Facilities	-	
Plan Preparation & Administration	1 additional lot @ \$287.41	287.41
TOTAL:		\$9,868.49

The contribution will be indexed quarterly in accordance with the Orange Development Contributions Plan 2015 (LGA Remainder). This Plan can be inspected at the Orange Civic Centre, Byng Street, Orange.

- (12) Application shall be made for a Subdivision Certificate under Section 109(C)(1)(d) of the Act.
- (13) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on 1 ET for water supply headworks and 1 ET for sewerage headworks. A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.

This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.

- (14) Application is to be made to Telstra/NBN for infrastructure to be made available to each individual lot within the development. Either a Telecommunications Infrastructure Provisioning Confirmation or Certificate of Practical Completion is to be submitted to the Principal Certifying Authority confirming that the specified lots have been declared ready for service prior to the issue of a Subdivision Certificate.

Conditions (cont)

Prior to the issue of a subdivision certificate (cont)

- (15) A Notice of Arrangement from Essential Energy stating arrangements have been made for the provision of electricity supply to the development, is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
- (16) All services are to be contained within the allotment that they serve. A Statement of Compliance, from a Registered Surveyor, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (17) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation or Subdivision Certificate, unless stated otherwise.

CONSTRUCTION TWO DWELLINGS

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (18) A skylight shall be installed to the Dwelling 2 lounge room (northern roof face). The skylight shall have minimum dimensions of 800mm x 500mm. Details of the skylight shall be included in the Construction Certificate application.
- (19) An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection. No plumbing and drainage is to commence until approval is granted.
- (20) Prior to the issue of a construction certificate for any dwelling, evidence shall be provided to demonstrate that the plan of subdivision to create approved Lots A and B has been lodged with NSW Land and Property Information.

PRIOR TO WORKS COMMENCING

- (21) Where any existing fencing at the perimeter of the site needs to be removed, or is of a type which does not ensure the occupants of any adjoining residence adequate privacy, new fencing of the type shown on the approved development application plans, or as referred to elsewhere in this Notice, shall be erected **prior to any building or construction work** being carried out upon this development.
- (22) A Construction Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.
- (23) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.

DURING CONSTRUCTION/SITWORKS

- (24) All construction/demolition work on the site is to be carried out between the hours of 7am and 6pm Monday to Friday inclusive, 7am to 5pm Saturdays and 8am to 5pm Sundays and Public Holidays. Written approval must be obtained from the General Manager of Orange City Council to vary these hours.

Conditions (cont)

During construction/siteworks (cont)

- (25) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (26) All services (water, sewer and stormwater) shall be laid outside the easement unless there is a direct connection to the main within that easement.
- (27) No portion of the building - including footings, eaves, overhang and service pipes - shall encroach into any easement.
- (28) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- (29) A 1.8m high fence shall be provided around the perimeter of the development (excluding the frontage) and on the common boundary in the rear yards between the attached dwellings. The height of the fence shall be measured from the highest finished ground level adjacent to each part of that fence.
- (30) Landscaping shall be installed in accordance with the approved plans and shall be permanently maintained to the satisfaction of Council's Manager Development Assessments.
- (31) No person is to use or occupy the building or alteration that is the subject of this approval without the prior issuing of an Occupation Certificate.
- (32) Where Orange City Council is not the Principal Certifying Authority, a final inspection of water connection, sewer and stormwater drainage shall be undertaken by Orange City Council and a compliance certificate issued, prior to the issue of either an interim or a final Occupation Certificate.
- (33) The cut and fill is to be retained and/or adequately battered and stabilised (within the allotment) prior to the issue of an Occupation Certificate.
- (34) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.
- (35) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation or Subdivision Certificate, unless stated otherwise.

Other Approvals

- (1) *Local Government Act 1993* approvals granted under Section 68.
Nil
- (2) General terms of other approvals integrated as part of this consent.
Nil

Right of Appeal

If you are dissatisfied with this decision, section 97 of *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

** Section 97 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.*

Disability Discrimination Act 1992:

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act* currently available in Australia.

Disclaimer - S88B Restrictions on the Use of Land:

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Signed:

On behalf of the consent authority **ORANGE CITY COUNCIL**

Signature:



Name:

DAVID WADDELL - DIRECTOR DEVELOPMENT SERVICES

Date:

3 May 2017