

18 September 2023

QMS Media Pty Ltd

NOTICE OF DETERMINATION - APPROVAL
APPLICATION NO: D/2022/431

Please find enclosed the Notice of Determination and advisory notes relating to your development application for 5010 Sydney Place , Woolloomooloo.

A copy of the DA Assessment Report can be viewed online at the City of Sydney's website development.cityofsydney.nsw.gov.au/DASearch/.

If further information is required, please contact **Daniel Stanley ph. 02 9265 9138, email dstanley@cityofsydney.nsw.gov.au.**

Yours faithfully



DANIEL STANLEY
Planner

NOTICE OF DETERMINATION - APPROVAL

Issued under Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979

Development Application No.	D/2022/431
Applicant	QMS Media Pty Ltd
Land to be developed	5010 Sydney Place , Woolloomooloo
Approved development	Installation of new automated public toilet (APT).
Cost of development	\$413,270
Determination	The application was determined by the Local Planning Panel and was granted consent subject to the conditions in Schedules 1 and 2.
Other Approvals	Before commencing <i>building work</i> or <i>subdivision work</i> , a relevant Construction Certificate must be obtained from Council or an Accredited Certifier. Council must be appointed the Principal Certifier for any <i>subdivision work</i> under the Act.
Consent is to operate from	6 September 2023
Consent will lapse on	6 September 2028

Reasons for conditions

Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest.

Reasons for Approval

The application was approved for the following reasons:

- A) The development, subject to conditions, serves the public interest as it will provide an essential community facility serving an outdoor recreation area and will enhance the amenity of the local area.
- B) The relocation of the facility as outlined in Condition 2 addresses residents' concerns about security, lighting and amenity.
- C) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979, in that, subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- D) The development, subject to conditions, is consistent with the objectives of the RE1 Public Recreation zone under the Sydney Local Environment Plan 2012.
- E) Appropriate conditions are recommended to ensure the proposed development does not adversely impact upon the heritage significance of nearby sites.

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- F) Appropriate conditions are recommended to ensure the proposed development will be effectively maintained and kept clean.
- G) The development accords with the objectives of relevant planning controls.
- H) Subject to recommended conditions of consent, the development satisfies the Design Excellence provisions pursuant to Clause 6.21C of the Sydney Local Environmental Plan 2012.
- I) The public interest is served by the approval of the proposal, as additional information to the development application has addressed the matters raised by the City and the community, subject to recommended conditions.
- J) Condition 2 was amended to enable access for servicing of the facility.
- K) Condition 10 was added to address residents' concerns.

Community Consultation

Twenty one submissions were received. Issues raised in all submissions have been taken into account in the report, and where appropriate conditions of consent have been included in the Notice of Determination to address these issues.

Right of appeal

If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six (6) months of the date of this notification.

Division 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination.

Division 8.2 does not apply to complying development, designated development, integrated development or a determination made by Council under Division 4.2 in respect of Crown applications. For further information please contact **Daniel Stanley on ph. 02 9265 9138.**



per
GRAHAM JAHN AM
Director - City Planning, Development & Transport

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SCHEDULE 1

CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2022/431 dated 17 May 2022 and the following drawings:

Drawing Number	Drawing Name	Date	Prepared by
APT16 Issue 4	Location Plan – Proposed	02/08/2023	-
A04 1002 Rev B	APT – Setout	08/08/2021	Grimshaw
A04 2004 Rev G	APT Accessible - Elevations	08/08/2021	Grimshaw
A01 Rev B	Details	02/02/2023	Pureablue
A02 Rev B	Details	02/02/2023	Pureablue
A03 Rev B	Details	02/02/2023	Pureablue
A04 Rev B	Details	02/02/2023	Pureablue
G1 Rev A	APT Green Roof & Wall Details	07/12/2021	Pureablue
G2 Rev A	APT Green Roof & Wall Details	07/12/2021	Pureablue
-	Fytogreen Top Hat Fixing Batten – Typical Drawing	23/11/2020	Fytogreen
FCF-001	Typical Details Sheet	02/06/2020	Fytogreen
L001	Planting Plan	16/08/2021	Fytogreen

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

(2) DESIGN MODIFICATION – APT RELOCATION

The proposed APT is not approved to be installed in the currently proposed location.

The proposed APT is to be relocated to the eastern side of the basketball court entrance gates on Sydney Place, adjacent to the retaining wall between Sydney Place and the basketball court.

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A plan showing the precise location of the relocated APT is to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

The submitted plan must provide dimensions confirming the precise location of the APT to comply with the following:

- The distance between the nearest part of the APT and the most eastern side of the basketball court entry gates is to be 2 metres.
- A 1000mm clearance is to be provided between the north rear elevation of the APT and the adjacent retaining wall between the basketball courts and Sydney Place.

Reason

To require the proposed APT to be situated to a more suitable and appropriate location on Sydney Place.

(3) DECOMMISSIONING STRATEGY FOR APT GREEN WALL ELEMENTS

In the event of a failure of the green wall, the strategy and details which are submitted to Council and enclosed in the letter titled APT Green Panel Decommissioning Strategy – City of Sydney Street Furniture Agreement D/2022/1248, dated 4 August 2023, prepared by Mecone and the document titled Sketchbook 65, dated 01 July 2022 and prepared by Grimshaw, are to be followed.

Reason

To ensure maintenance of the green wall panels and provide a remediation strategy in case the green wall planting fails.

(4) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plans of Management, titled *Plan of Management and Maintenance of Assets – Automated Public Toilets (APTs) – External Areas* and *Plan of Management and Maintenance of Assets – Automated Public Toilets (APTs) – Internal Areas* (TRIM Ref: 2022/285687) which has been approved by Council.

Reason

To ensure all parties are aware of the approved supporting documentation that applies to the development.

(5) PRESERVATION AND REINSTATEMENT OF PUBLIC ASSETS

- (a) The developer must ensure that all existing public assets are retained and preserved for the duration of development works.
- (b) Any damage caused to public assets as a result of development works, including but not limited to damage to footpath, kerb and gutter, signage, survey marks, street furniture, utility pit lids, lighting, street trees and adjacent carriageways are to be rectified to Council's satisfaction.

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- (c) Any rectification works must be completed in accordance with Council's specifications and requirements prior to the use of the Automated Public Toilet commencing.

Reason

To ensure public assets are maintained and protected.

(6) WASTE AND RECYCLING MANAGEMENT - GENERAL

- (a) The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to promote the efficient storage, separation, collection and handling of waste to maximise resources recovery.
- (b) Any wastewater from the Premises must only be disposed of in the public sewerage system.

Reason

To ensure that waste and recycling is appropriately managed.

(7) WASTE/RECYCLING COLLECTION

- (a) Waste storage and the collection of waste and recycling must be only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places 2017.
- (b) Waste and recycling bins must not be placed on the street for collection. Services must be conducted within the property boundary.

Reason

To ensure that waste and recycling is appropriately managed.

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PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

(8) UTILITY SERVICES

- (a) Prior to the issue of a Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

Reason

To ensure that utility authorities are advised of the development.

(9) TREE PROTECTION PLANS

All detailed architectural, building, engineering (structural, stormwater and drainage services) and landscape documentation submitted for the Construction Certificate shall clearly show on all drawings the retention of trees as required by these conditions of consent, the position of their trunks, full diameter of their canopies, Structural Root Zones (SRZs) and Tree Protection Zones (TPZs).

Reason

To ensure the trees to be protected and retained are considered through construction.

(10) HOURS OF OPERATION

- a) The approved base hours of operation of the facility are from sunrise to 9:00pm.
- b) Notwithstanding (a) above, a trial period is granted for the operation of the facility from 9:00pm to sunrise for a period of twelve months.

Reason

To allow for monitoring of the 24-hour operation of the facility.

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PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

(11) COMPLIANCE WITH COUNCIL STANDARDS AND DISABILITY DISCRIMINATION ACT

The placement of the automatic public toilet and any associated TGSI's or textured paving works is to ensure compliance with Council's access requirements and the Disability Discrimination Act 1992 and that there are no conflicts with existing street furniture and fixtures. All works are required to ensure that the public domain complies with the City of Sydney's Sydney Streets Technical Specification and the Sydney Streets Codes 2021. The compliance is to be achieved prior to the use of the Automated Public Toilet commencing.

Reason

To ensure the APT provides for all abilities access.

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PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(12) HAND EXCAVATION WITHIN TREE ROOT ZONES

- (a) Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Tree No.	Species Name	Tree Location	TPZ (m) from Trunk
1 – 3	Melaleuca quinquenervia	Raised garden area of Basketball courts (northern side of ATP location)	5.5m
4	Corymbia maculata	Centre of Sydney Plan (southern side of ATP location)	4m

- (b) Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.
- (c) Footings shall be relocated / realigned if any tree root greater than 50mm in diameter is encounter during excavations. A minimum of 150mm clearance shall be provided between the tree root and footing.
- (a) Services shall be redirected where roots greater than 40mm diameter are encountered during the installation of any services, including pipes within the specified TPZ.
- (d) All root pruning must be undertaken in accordance with the Australian Standard 4373 “Pruning of Amenity Trees” and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).
- (e) All excavations located within the above distance must be supervised by a qualified Consultant Arborist, who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework.

Reason

To ensure adequate protection of street trees during construction.

(13) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone of any tree listed for retention. The Arborist must certify compliance with each key milestone as detailed below:
 - (i) Installation of tree protection measures;

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- (ii) During demolition of any ground surface materials (paving, concrete, grass etc) within the Tree Protection Zone (TPZ) of any tree to be retained;
 - (iii) During any excavation and trenching which has been approved by Council within the TPZ of any tree to be retained;
 - (iv) During any Landscape works within the TPZ of any tree to be retained.
- (b) An Arboricultural Compliance Report which includes photographic evidence and details of the health and condition of trees, must be submitted to Council's Area Planning Manager at each hold-point listed below:
- (i) Certification tree protection measures have been installed in accordance with the conditions prior to the commencement of works;
 - (ii) Certification of compliance with each key milestone listed above within 48 hours of completion;
 - (iii) Details of any other works undertaken on any tree to be retained or within TPZ/s;
 - (iv) A final compliance report shall be submitted prior to the issuing of the Occupation Certificate.

Reason

To confirm construction works are to be overseen by a qualified arborist in order to ensure adequate tree protection.

(14) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. Loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 – 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under

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Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Team, prior to works proceeding

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Reason

To protect the amenity of the surrounding area.

(15) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Reason

To protect the amenity of the public domain.

(16) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Reason

To protect the amenity of the public domain.

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PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

There are no conditions relevant to Part E.

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PART F – OCCUPATION AND ONGOING USE

(17) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Reason

To ensure the site is authorised for occupation.

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SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2021* apply:

- Clause 69 Compliance with *National Construction Code (previously known as Building Code of Australia)* and insurance requirements under the *Home Building Act 1989*
- Clause 70 Erection of signs
- Clause 71 Notification of *Home Building Act 1989* requirements
- Clause 72 Conditions relating to entertainment venues
- Clause 73 Conditions relating to maximum capacity signage
- Clause 74 Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 2 conditions of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>

IMPORTANT ADDITIONAL INFORMATION

Advisory notes:

1. It is advised that the City of Sydney Neighbourhood Parking Policy may apply to this development. Eligibility for parking permits for residents or users of the development will be determined by the terms of this policy or subsequent future policies.

The Environmental Planning and Assessment Act 1979 requires you to:

1. Obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate.
2. ***It is compulsory to lodge digital copies of applications, including plans and documentation if lodging an application with Council. Please refer to Council's website for any further information about digital requirements and electronic files.***

Note: All applications must be lodged via the NSW Planning Portal.

3. Nominate a **Principal Certifier** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement. Appointment must be made through the Planning Portal <https://www.planningportal.nsw.gov.au/>
4. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
5. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

You may also need to:

6. Obtain approval through the lodgement of an application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* for an activity which is proposed to be undertaken in, on or above a road reservation (including footways). Such activities include:
 - (a) building elements/façade features;
 - (b) installation of hoardings/scaffolding;
 - (c) installation and/or alterations to advertising/business signs and street awnings;
 - (d) crane operation and other hoisting activities;
 - (e) temporary works (e.g.: barricading, road openings, mobile hoisting devices);
 - (f) works zone (for loading and unloading from the roadway); and
 - (g) temporary ground anchoring and shoring to support a roadway when excavating.

Application forms are available on the City's website.

7. Lodge an **Application for Subdivision** to obtain a **Subdivision Certificate** if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain **Strata Title Subdivision** under the relevant Strata Titles Act if strata title of the development is proposed.

8. Comply with the Food Act 2003, the Australia New Zealand Food Standards Code, Australian Standard 4674 – 2004, and register the business with Council if the premises is used for the manufacture, preparation, packing, storing, conveying or delivering of food or beverage for sale.
9. Contact Sydney Water regarding the water and sewerage services to this development. For further information go to www.sydneywater.com.au.
10. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.