



Mr Joseph Monardo
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SYDNEY NSW 2000

D111/23
DK4 (CIS)

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

Development Application Number:	111/23
Land to which this applies:	168 Walker Street North Sydney Lot No.: 100, DP: 1172241
Applicant:	Joseph Monardo
Proposal:	Mixed-use Stratum Subdivision and Strata Subdivision
Determination of Development Application:	Subject to the provisions of Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> , approval has been granted subject to conditions in the notice of determination.
Date of Determination:	6 September 2023


Reasons for Approval

The proposed development was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and generally found to be satisfactory, subject to the satisfaction of recommended conditions of consent.

The application proposes stratum and strata subdivision of an approved shop top housing development that is a permissible form of development in the MU1 Mixed-use zone.

The development application was not required to be advertised and as such, no submissions were received.

The assessment of the proposed development has duly considered the performance of the application against Council's planning requirements. Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), the application recommended for **approval** given the consistency to the objectives and controls within the North Sydney Local Environmental Plan and Development Control Plan 2013, and lack of material adverse impacts on the redevelopment of the adjoining properties.

Consent to operate from:	6 September 2023
Consent will lapse on:	6 September 2028
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 6 September 2028.
How community views were taken into account:	The proposed development is considered to be in the public interest for the reasons stated throughout this report.
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	
6 September 2023	
DATE	Signature on behalf of consent authority DAMON KENNY EXECUTIVE PLANNER (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.

INDEX OF CONDITIONS

	Page No.
A. <i>Conditions that Identify Approved Plans</i>	
A1. Development in Accordance with Plans/Documentation	6
K. <i>Prior to the Issue of any Strata Certificate</i>	
K1. Registered Plans (Strata)	7
K2. Strata Subdivision	
K3. Easements, Rights-of-way and Restrictions-as-to-user	7
K4. Section 88B Instrument	7
K5. Sydney Water	8
K6. Release of Strata Certificate	8
K7. Allocation of Parking and Visitor Parking	9
K8. Building and Unit Numbering (Strata Subdivisions)	9
K9. Services within Lots	10

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.	Reference	Description	Prepared by	Dated
Sheet 1	51366 001DP	Location plan	LTS	No date
Sheet 2	51366 001DP	Basement 4 and below	LTS	No date
Sheet 3	51366 001DP	Basement 3	LTS	No date
Sheet 4	51366 001DP	Basement 2	LTS	No date
Sheet 5	51366 001DP	Lower ground level	LTS	No date
Sheet 6	51366 001DP	Upper ground level	LTS	No date
Sheet 7	51366 001DP	Level 01	LTS	No date
Sheet 8	51366 001DP	Level 02	LTS	No date
Sheet 9	51366 001DP	Levels 03, 05-08	LTS	No date
Sheet 10	51366 001DP	Level 04	LTS	No date
Sheet 11	51366 001DP	Level 09	LTS	No date
Sheet 12	51366 001DP	Levels 10 – 18	LTS	No date
Sheet 13	51366 001DP	Level 19	LTS	No date
Sheet 14	51366 001DP	Levels 20 – 25	LTS	No date
Sheet 15	51366 001DP	Level 26	LTS	No date
Sheet 16	51366 001DP	Level 27	LTS	No date
Sheet 17	51366 001DP	Level 28	LTS	No date
Sheet 18	51366 001DP	Level 29 and above	LTS	No date
Sheet 1	51366 002SP	Location plan	LTS	No date
Sheet 2	51366 002SP	Basement 6	LTS	No date
Sheet 3	51366 002SP	Basement 5 & 4	LTS	No date
Sheet 4	51366 002SP	Basement 3	LTS	No date
Sheet 5	51366 002SP	Basement 2	LTS	No date
Sheet 6	51366 002SP	Level 02	LTS	No date
Sheet 7	51366 002SP	Level 03	LTS	No date
Sheet 8	51366 002SP	Level 04	LTS	No date
Sheet 9	51366 002SP	Level 05	LTS	No date
Sheet 10	51366 002SP	Level 06	LTS	No date
Sheet 11	51366 002SP	Level 07	LTS	No date
Sheet 12	51366 002SP	Level 08	LTS	No date
Sheet 13	51366 002SP	Level 09	LTS	No date
Sheet 14	51366 002SP	Level 10	LTS	No date
Sheet 15	51366 002SP	Level 11	LTS	No date
Sheet 16	51366 002SP	Level 12	LTS	No date
Sheet 17	51366 002SP	Level 13	LTS	No date
Sheet 18	51366 002SP	Level 14	LTS	No date
Sheet 19	51366 002SP	Level 15	LTS	No date
Sheet 20	51366 002SP	Level 16	LTS	No date
Sheet 21	51366 002SP	Level 17	LTS	No date
Sheet 22	51366 002SP	Level 18	LTS	No date
Sheet 23	51366 002SP	Level 19	LTS	No date
Sheet 24	51366 002SP	Level 20	LTS	No date
Sheet 25	51366 002SP	Level 21	LTS	No date

Sheet 26	51366 002SP	Level 22	LTS	No date
Sheet 27	51366 002SP	Level 23	LTS	No date
Sheet 28	51366 002SP	Level 24	LTS	No date
Sheet 29	51366 002SP	Level 25	LTS	No date
Sheet 30	51366 002SP	Level 26	LTS	No date
Sheet 31	51366 002SP	Level 27 and 28	LTS	No date

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

K. Prior to the Issue of any Strata Certificate

Registered Plans (Strata)

- K1. The applicant must submit to Council's documentary evidence that the Strata Plan 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.)

Strata Subdivision

- K2. A Strata Certificate pursuant to the *Strata Schemes (Freehold Development) Act 1973*, that authorises registration of the strata plan, strata plan of subdivision or notice of conversion at NSW Land Registry Service must be obtained. If the Strata Certificate is obtained from an Accredited Certifier, other than the Council, the certifier is to provide Council with a copy of the endorsed Strata Certificate within seven (7) days of issuing the same, pursuant to the *Strata Schemes (Freehold Development) Regulation 2002*.

Notes: For approval of the Strata Certificate by North Sydney Council, the following must be submitted to Council:

- the original strata plans or strata plans of subdivision and administration sheets plus two (2) copies of each, and any original Instrument (including but not limited to any section 88B or 88E instruments) to be endorsed, all **enclosed in a protective cardboard tube** (to prevent damage during transfer);
- two additional copies of the strata plans or strata plans of subdivision and any relevant Instrument for submission to Council Customer Services and records department for electronic database scanning and copying;
- a completed *Subdivision or Strata Certificate Application* form together with payment of fee current at lodgement;
- written evidence that all applicable conditions of consent required to be satisfied, prior to issue of the Strata Certificate, have been satisfied. 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;

- e) **plans of subdivision and copies must not be folded; and**
- f) **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)

Easements, Rights-of-way and Restrictions-as-to-user

- K3. All easements, rights-of-way, rights-of-carriageway, and restrictions-as-to-user as indicated on the plans submitted with the application for the Strata Certificate must be registered on the title of the relevant lots.

(Reason: To ensure proper management of land)

Section 88B Instrument

- K4. A Section 88B Instrument and one copy are to be submitted with the application for a strata certificate.

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)

Sydney Water

- K5. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

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:

1. Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au or telephone 13 20 92.
2. 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)

Release of Strata Certificate

- K6. The Strata Certificate that authorises registration of the Strata Plan, Strata Plan of Subdivision or Notice of Conversion at NSW Land and Property Information shall not be issued until bounding walls, floors and ceilings between proposed strata lots have been constructed in accordance with the approved plans identified in Condition A1 of this Consent.

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

Allocation of Parking and Visitor Parking

- K7. Car-parking provided must only be used in conjunction with the units and tenancies contained within the development. Any carparking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

A maximum of 280 car parking spaces provided shall be allocated to the apartments contained within the development with no more than one car space per apartment. The remaining spaces are to be allocated as follows:

- 60 spaces to the 60 adaptable apartments
- 7 spaces to the commercial/retail
- 2 spaces for car wash bays
- 2 spaces for car share

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Carparking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any carparking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Building and Unit Numbering (Strata Subdivisions)

- K8. 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 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 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 Property Addressing Policy. Proper building and unit numbering also assist emergency services in readily locating properties)

Services within Lots

K9. 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)