

<b>Original signed by</b>	<b>Miguel Rivera</b>	<b>on</b>	<b>11/07/2022</b>
	<b>Date determined:</b>	<b>7/07/2022</b>	
	<b>Date operates:</b>	<b>11/07/2022</b>	
	<b>Date lapses:</b>	<b>11/07/2022</b>	

A Roberts  
43 Crows Nest Road  
WAVERTON NSW 2060

D89/22  
MR3 (CIS)

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

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**Development Application Number:** 89/22

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**Land to which this applies:** 29A Bay Road, Waverton  
Lot No.: B, DP: 331344

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**Applicant:** A Roberts

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**Proposal:** Strata subdivision of existing residential flat building

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**Determination of Development Application:** Subject to the provisions of Section 4.17 of *the Environmental Planning and Assessment Act 1979*, approval has been granted subject to conditions in the notice of determination.

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**Date of Determination:** 7 July 2022

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**Reasons for Approval**

The development application has been assessed against the relevant State Government Policies (including the SEPP Housing 2021), the North Sydney Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and generally found to be satisfactory. Given the reasons detailed in the Assessment section above, the proposed development is unlikely to result in adverse material impacts to the environment and to surrounding properties.

Having regard to the provisions of Section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*, the proposed development will not result in any unreasonable amenity or environmental impacts. The application is considered satisfactory and is recommended for approval.

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**Consent to operate from:** 11 July 2022

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**Consent will lapse on:** 11 July 2027

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**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 11 July 2027.

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**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. Any potential loss of affordable housing will be offset by monetary contributions required by an imposed condition (refer to Condition K1). Potential displacement of tenants will be mitigated and managed by an imposed condition (refer to Condition K2).

The application was notified to adjoining properties and the Edward Precinct Committee. No submissions were raised during notification period.

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**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.

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Plans endorsed by the consent authority - please refer to condition A1.

**Endorsed for and on behalf of North Sydney Council**

**11 July 2022**

DATE

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Signature on behalf of consent authority  
MIGUEL RIVERA  
**A/TEAM LEADER (ASSESSMENTS)**

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(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**

	<b>Page No.</b>
<b>A.     <i>Conditions that Identify Approved Plans</i></b>	
A1.    Development in Accordance with Plans/Documentation	6
<b>F.     <i>Prescribed Conditions imposed under EP&amp;A Act and Regulations and other relevant Legislation</i></b>	
F1.    National Construction Code	6
<b>K.     <i>Prior to the Issue of any Strata Certificate</i></b>	
K1.    Contribution for Affordable Housing	6
K2.    Resident Relocation Plan - Assistance to Displaced Tenants	6
K3.    Fire Safety Upgrade	8
K4.    Services Within Lots	8
K5.    Sydney Water	9
K6.    Building and Unit Numbering (Strata Subdivisions)	9
K7.    Strata Subdivision	9
K8.    Allocation of Parking and Visitor Parking	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.

Title	Drawn by	Plan No	Dated	Received
Location Plan	Paul Anthony Cechellero	Sheet 1 of 2	No date	29 March 2022
Floor Plans		Sheet 2 of 2		

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

**F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation**

**National Construction Code**

- F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

**K. Prior to the Issue of any Strata Certificate**

**Contribution for Affordable Housing**

- K1. Prior to the issue of a Strata Certificate, the proponent shall make a monetary contribution of **\$312,163.87** to North Sydney Council as a contribution towards providing affordable housing pursuant to Section 7.32 of *the Environmental Planning and Assessment Act 1979*, as calculated in accordance with Clause 48 of the State Environmental Planning Policy (Housing) 2021.

The contribution MUST BE paid prior issue of any Strata Certificate.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

(Reason: To mitigate the loss of low-rental accommodation within the State)

**Resident Relocation Plan - Assistance to Displaced Tenants**

- K2. Prior to the issue of any Strata Certificate, all tenants within the building are required to be notified in writing by way of an additional term on their lease agreements that they would be entitled to relocation in general accordance with the terms of Council's Resident Relocation Plan, as set out below.

Council's Resident Relocation Plan is as follows:

- (a) Minimum 12 weeks' notice to vacate to residents; notice to provide full details of support mechanisms, including professional assistance to those determined to require it.
- (b) Needs assessment to be carried out by a qualified social worker with experience in housing issues (Assuming a vulnerable tenant(s) are identified, estimate 4 weeks part time for a typical boarding house in North Sydney, inclusive of liaising with relevant agencies); social worker to be engaged 5 working days prior to notice being given (to allow them to commence work on the day that notice is advertised).
- (c) Application of the Plan to all residents who apply, with provision of assistance based on individual needs as assessed;
- (d) Liaison with the Department of Housing (Dee Why office) and LINK Housing Lower North Shore in support of residents experiencing difficulties in relocating, and use of a social worker to provide or coordinate such assistance;
- (e) Liaison between the social worker and the NSW Tenants Advice and Advocacy Service to provide assistance to residents for whom the first language is not English;
- (f) Information to residents, including lists of comparable accommodation, and assistance in negotiations with real estate agents where reasonably possible, and supportive references;
- (g) Practical assistance to be given to those residents who have been assessed as not requiring any support from other agencies to manage but who may require practical assistance such as transport, bond assistance, and the like;
- (h) Payment of removal costs and bonds for new accommodation and the first months' rent for vulnerable tenants (up to \$940.00 per couple); may be waived if costs for Social Worker exceed \$5,000.00;
- (i) Commencement, interim progress, and completion dates for implementation of the Plan, in relation to estimated site preparation or construction start date;
- (j) Advising Council's Community Development Department of commencement, interim progress, and final advice on the implementation of the Plan.

The Relocation Plan must be implemented to the written satisfaction of the Manager of Council's Development Services Department. No relocation shall commence until Council's Community Development Department has provided written confirmation that the Resident Relocation Plan is satisfactory.

The preparation and implementation of a Resident Relocation Plan for any tenant/s displaced through the sale of any unit is to be at no cost to Council. Any costs associated with the engagement/employment of a recruitment consultant and/or social worker, and any financial/monetary assistance to residents provided under the Plan, is to be at no cost to Council.

(Reason: Pursuant to clauses 47 (2)(d) of SEPP (Housing) 2021 to assist any displaced tenants in finding suitable comparable accommodation and to ensure the costs of mitigating the loss of affordable housing supply resulting from the development is at no cost to Council)

### **Fire Safety Upgrade**

K3. Prior to issue of any Strata Certificate, works involving the upgrading/installation of essential fire safety measures (as recommended in the *Fire Engineering Report No.0686 - Revision A - Final prepared by J2 Consulting Engineers Pty Ltd, dated 1 February 2018 and received by Council on 12 November 2018*) are to be fully completed.

A **Fire Safety Schedule** and **Final Fire Safety Certificate** (as specified in clauses 168 to 174 of the Environmental Planning and Assessment Regulation 2000) must be issued with the Construction Certificate and Occupation Certificate respectively.

A report from an appropriately qualified person in relation to fire safety and the Building Code of Australia, certifying that the fire upgrading works have been completed and indicating all required essential fire safety measures have been installed and verified as functioning in accordance with the abovenamed report, must be submitted to the Certifying Authority for approval prior to the issue of any Strata certificate.

Note: The requirement to undertake physical building works in relation to the installation/upgrade of essential fire safety measures in the building constitutes building work and as such will necessitate obtaining a Construction Certificate, appointing a Principal Certifying Authority and obtaining an Occupation Certificate (pursuant to section 81A and 109M of the EP&A Act).

(Reason: To meet legislative requirements and ensure adequate provision is made for fire safety in the premises)

### **Services within Lots**

K4. 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)



**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](http://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)

**Building and Unit Numbering (Strata Subdivisions)**

K6. 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)

**Strata Subdivision**

K7. 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 and Property Information Office 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:

- a) 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);

- b) 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;
- c) a completed *Subdivision or Strata Certificate Application* form together with payment of fee current at lodgement;
- d) 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)

**Allocation of Parking and Visitor Parking**

K8. 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.

The allocation of spaces must be maintained in accordance with the following table:

A single space internally located within garage	Residential unit - Lot 3 (Pt 3)
A single space internally located within garage	Residential unit - Lot 5 (Pt 5)

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)