



Ms Maddie Shahi
Transport for NSW
Level 3 East,
36-46 George Street
BURWOOD NSW 2134

D191/22
JD6 (CIS)

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

Development Application Number:	191/22
Land to which this applies:	16 French Street McMahons Point, and Railway Land Lot No.: 1 & 2, DP: 745294
Applicant:	Transport for NSW
Proposal:	Subdivision of Lot 100, DP 1103512, into two lots and consolidation of proposed Lot 3 with Lots 1 and 2, DP 745294
Determination of Development Application:	Subject to the provisions of Section 4.17 of <i>the Environmental Planning and Assessment Act 1979</i> , approval has been granted subject to conditions in the notice of determination.
Date of Determination:	21 March 2023
Reasons for Approval	<p>The development application has been assessed against the North Sydney Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and generally found to be satisfactory.</p> <p>The proposal is unlikely to cause adverse material impacts to adjoining properties or the environment.</p> <p>Having regard to the provisions of Section 4.15 (1) of <i>the Environmental Planning and Assessment Act 1979</i>, the proposed development will not result in any unreasonable amenity or environmental impacts. The application is considered satisfactory and is recommended for approval.</p>
Consent to operate from:	21 March 2023

Consent will lapse on: 21 March 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 21 March 2028.

How community views were taken into account:

The subject application was notified to adjoining properties and the Edward, Union and Lavender Bay Precinct Committees for 14 days where a key issue was raised, which has been addressed in 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

21 March 2023

DATE



Signature on behalf of consent authority
JIM DAVIES
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
A2. No Demolition of Extra Fabric	6
A3. External Finishes and Materials	6
I. <i>Ongoing/Operational Conditions</i>	
I1. Removal of Extra Fabric	6
J. <i>Prior to the Issue of Any Subdivision Certificate (Land/Torrens/Stratum)</i>	
J1. Registered Plans (Land/Torrens/Stratum)	6
J2. Easements, Rights-of-way and Restrictions-as-to-user	6

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.	Issue	Title	Drawn by	Received
3 of 3	23/12/2021	Plan of Subdivision of Lot 100 in DP 11035512	Ian Stuart Jones, Surveyor	23/12/2021

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

No Demolition of Extra Fabric

- A2. Alterations to, and demolition of the existing building are not permitted by this approval.

(Reason: To ensure compliance with the approved development)

I. Ongoing/Operational Conditions

Removal of Extra Fabric

- I1. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

J. Prior To the Issue of Any Subdivision Certificate (Land/Torrens/Stratum)

Registered Plans (Land/Torrens/Stratum)

- J1. The applicant must submit to Council documentary evidence that the subdivision has been registered and the lots exist including consolidation of proposed Lot 2 and Lot 1, DP 222085.

(Reason: To ensure that the allotments of land are created prior to the commencement of the approved use.)

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

- J2. All easements, rights-of-way, right-of-carriageway, and restrictions-as-to-user as indicated on the plans submitted with the application for the Subdivision Certificate must be registered on the title of the relevant lots.

(Reason: To ensure proper management of land)