



Lendlease Development Pty Ltd  
Level 12, Tower Three  
International Towers Sydney  
300 Barangaroo Avenue  
BARANGAROO NSW 2000

D38/24  
RW (CPE)

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

<b>Development Application Number:</b>	<b>38/24</b>
<b>Land to which this applies:</b>	171 Miller Street, North Sydney Lot No.: 1, DP: 1288164
<b>Applicant:</b>	Lendlease Development Pty Ltd
<b>Proposal:</b>	Use of outdoor furniture within outdoor dining zones at the Victoria Cross OSD, outdoor seating layouts for tenancies. (aka 189 Miller Street)
<b>Determination of Development Application:</b>	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.
<b>Date of Determination:</b>	3 April 2024
<b>Reasons for Approval</b>	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.  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 subject to conditions. The application is considered satisfactory and is recommended for approval.
<b>Consent to operate from:</b>	5 April 2024

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**Consent will lapse on:** 5 April 2029

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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 5 April 2029.

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**How community views were taken into account:**

The proposal is considered to be in the public interest for the reasons stated throughout this report.

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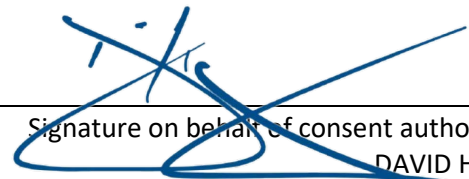
Plans endorsed by the consent authority - please refer to condition A1.

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

**5 April 2024**

DATE

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Signature on behalf of consent authority  
DAVID HOY  
**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 2021 (“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.

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**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 endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

<b>Plan No.</b>	<b>Rev.</b>	<b>Description</b>	<b>Prepared by</b>	<b>Dated</b>
ID01.8	E	L00 – Umbrella Setout Plan	Fiona Lynch	17.01.2024
-	C	Umbrella and Awning Schedule	Fiona Lynch	29/11/2023
-	03	Pedestrian Design Statement (0548r02v03)	PDC Consultants	17 May 2023

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

**I. Ongoing/Operational Conditions**

**Maintenance of Furniture**

- I1. All outdoor dining furniture is to be erected in a secure manner and maintained to ensure safety. The conditions in the consent DA352/23, granted approval on 26 February 2024 applies.

(Reason: To ensure safety)

**Furniture Clearance**

- I2. All pots and furniture approved in this consent are to be set out to ensure the minimum pedestrian thoroughfare and clearances are maintained to the shopfront of the building, in accordance with the Pedestrian Design Statement prepared by *PDC Consultants*, dated 17 May 2023, with the exception of Channel 3 which may consist of a minimum clearance of 3.25m, instead of 3.35m minimum clearance width.

(Reason: To ensure adequate and unobstructed pedestrian amenity relating to the provision of outdoor furniture on footpaths)