

Original signed by Lara Huckstepp on 10/8/2021

Date determined: 3/8/2021

Date operates: 10/8/2021

Date lapses: 10/8/2026

Stratasurv Pty Ltd
As agent for Pauline Nguyen
PO Box 305
FIVE DOCK NSW 2046

D160/21
LH (CIS)

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

Development Application Number: 160/21

Land to which this applies: 563 Pacific Highway, St Leonards
Lot No.: 1, DP: 1096026

Applicant: Stratasurv

Proposal: Two lot stratum subdivision and 17 lot strata subdivision.

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.

Date of Determination: 3 August 2021

This application is considered satisfactory in respect of the relevant statutory and policy controls.

Reason for Approval The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and general found to be satisfactory.

The application proposes stratum and strata subdivision of an approved shop top housing development that is a permissible form of development in the B4 Mixed Use zone.

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

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate standard and site-specific conditions.

Consent to operate from: 10 August 2021

Consent will lapse on: 10 August 2026

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 10 August 2026.

How community views were taken into account: The proposal 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

DATE

Signature on behalf of consent authority
LARA HUCKSTEPP
EXECUTIVE PLANNER

(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.

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A. *Conditions that Identify Approved Plans*

Development in Accordance with Plans

A1. The stratum subdivision shall be generally in accordance with the following plans and documentation:

1. (a) Deposited Plan Administration Sheets 1-4 (Plan of subdivision of Lot 1 in DP1096026) Revision a1 and dated 20/5/2021 and Deposited Plan Sheets 1-4 Lot 1 in DP1096026 (Draft DP1274485) Revision A1 dated 21/5//2021, prepared by Stratasurv Pty Ltd; and
- (b) Instrument setting out terms of easements or profits for Plan of Subdivision of Lot 1 in Deposited Plan 1096026, Sheets 1-2.

The strata subdivision shall be generally in accordance with the following plans and documentation:

2. Strata Plan Sheets 1-5 Lot 1 in DP1274485 (PPN10330) Revision a2 dated 1/6/2021 and Strata Plan forms Sheets 1-7 Lot 1 in DP1274485 (PPNSP103300) Revision a2 dated 26/5/2021, all prepared by Stratasurv Pty Ltd.

Except where amended by the following conditions.

(Reason: Statutory)

No Approval to Create Lot 18 as a Utility Lot

A2. No approval is granted or implied to create Lot 18 as a separate utility lot. The area denoted as Lot 18 (being an approved car space) shall instead be allocated so as to form part of a residential lot (apartment). All plans and documentation shall be amended accordingly.

(Reason: Condition G20 of DA296/13 requires all car parking to be allocated to a lot and the provision of a separate utility lot is not permitted)

Inconsistencies on Plans

A3. This development consent does not grant or imply approval for any non-compliances of any as-built structures with the approved plans. The issue of consistency with the approved plans is a matter for the Certifying Authority. Should any building elements be deemed to be non-compliant, approval should be sought to modify this development consent as required. For clarity, no approval is granted or implied for any encroachment of any lot within Council land or any adjoining property.

(Reason: To clarify 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's documentary evidence that the subdivision 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)

Subdivision Certificate

- J2. A subdivision certificate that authorises the registration of a plan of subdivision at the NSW Land Registry Services must be obtained. The following must be submitted to Council with any application for a Subdivision Certificate:

- a. The original plans of subdivision and administration sheets plus two (2) copies of each, and any original 88B instrument to be endorsed, all **enclosed in a protective cardboard tube** (to prevent damage during transfer);
- b. Two additional copies of both the plans and any 88B instrument for submission to Customer Services and records for electronic database scanning and copying;
- c. Application for Subdivision Certificate form duly completed with payment of fee current at lodgement;
- d. Written evidence that all applicable conditions of consent to be satisfied, prior to issue of the Subdivision Certificate, have been satisfied (including submission of all required certificates and the like); and
- e. All other information required by the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

NOTES:

- 1) Council will check the consent conditions on the relevant subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision and may require payment of rechecking fees.
- 2) **Plans of subdivision and copies must not be folded.**
- 3) **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)

Sydney Water Compliance Certificate

- J3. A section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the release of a subdivision certificate.

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: Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index, or telephone 13 20 92.

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)

Services within Lots

- J4. 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)

Easements, Rights of way, Rights of Carriageway and Restrictions as to User

- J5. All easements, rights-of-way, right-of-carriageway, and restrictions-as-to-user as indicated on the plans and documentation 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)

Section 88B Instrument

- J6. A Section 88B Instrument and 1 copy are to be submitted with the application for a subdivision certificate. The instrument creating the restrictions, easements and covenants under the provisions of Section 88B required by these conditions must be lodged for registration with the plan of subdivision. Proof of registration of the restrictions, easements and covenants under Section 88B must be provided to Council within 28 days of the plan of subdivision)

(Reason: To create legal entitlements with the subdivision, as required)

Release of Subdivision Certificate

- J7. A Subdivision Certificate must not be issued until all conditions of this consent have been satisfied and the Final Occupation Certificate has been issued for the building

(Reason: To ensure that the development is completed to an acceptable standard prior to registration)

Building and Unit Numbering

- J8. Prior to issue of any Subdivision Certificate, the person acting upon this consent must apply to North Sydney Council and receive written confirmation of the allocated street address (house number) and unit numbers for the building. 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 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 assists emergency services in readily locating properties)

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 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. 2 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)

Sydney Water

K3. 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

K4. The Strata Certificate that authorises registration of the Strata Plan, Strata Plan of Subdivision or Notice of Conversion at NSW Land Registry Services 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

- K5. 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:

9	Residential
1	Non-residential

As set out in Condition A1 above, proposed Lot 18 is not approved as a separate utility lot. The area denoted at Lot 18 shall be instead allocated as part of the lot entitlement to a residential lot (apartment).

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)

- 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 assists emergency services in readily locating properties)

Services within Lots

- K7. 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)