

Original signed by Robyn Pearson on 25/07/2022

Paul Di Cristo
Willoughby Street Pty Ltd
Suite 801, Level 8
28-34 O'Connell Street
SYDNEY NSW 2000

D336/20
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 336/20/3 - APPROVAL**

Development Consent Number: 336/20

Land to which this applies: 2-4 Winslow Street, Kirribilli
Lot No.: 1, DP: 932077

Applicant: Paul Di Cristo

Date of Determination: 18 July 2022

Proposal: Section 4.55(2) modification relating to Torrens title subdivision into three separate lots, use of the existing federation style terrace buildings as semi-detached dwellings including alterations and additions, and reconstruction of the existing commercial premises under existing use rights provisions

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **336/32** and registered in Council's records as Application No. **336/20/3** relating to the land described as **2-4 Winslow Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **5 May 2021**, has been determined in the following manner:

To insert condition A6 Development in Accordance with Plans/Documentation (S4.55)

Development in Accordance with Plans/Documentation

A6 The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on:

Plan No.	Issue	Title	Dated	Drawn by	Received
DA-003	G	Site and Landscape Plan	29 April 2022	Chrofi	28 June 2022

DA-004	G	Ground and First Floor Demolition Plan	29 April 2022		28 June 2022
DA-005	G	Second Floor and Roof Demolition Plan	29 April 2022		28 June 2022
DA-101	G	Basement Floor Plan	29 April 2022		28 June 2022
DA-102	G	Ground Floor Plan	29 April 2022		28 June 2022
DA-103	G	First Floor Plan	29 April 2022		28 June 2022
DA-104	G	Second Floor Plan	29 April 2022		28 June 2022
DA-105	G	Third Floor Plan and Door and Window Schedule	29 April 2022		28 June 2022
DA-106	G	Roof Plan	29 April 2022		28 June 2022
DA-201	G	North Elevation	29 April 2022		28 June 2022
DA-202	G	South and Street Elevations	29 April 2022		28 June 2022
DA-203	G	East and West Terraces Elevation	29 April 2022		28 June 2022
DA-204	G	East and West Commercial Elevation	29 April 2022		28 June 2022
DA-301	G	01-Section	29 April 2022		28 June 2022
DA-302	G	02-Section	29 April 2022		28 June 2022
DA-501	G	Fence and Balustrade Details	29 April 2022		28 June 2022

except as amended by the following conditions and this consent.

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

B. To Amended Conditions A5 and C36

External Finishes and Materials

A5 External finishes and materials must be in accordance with the Material Palette Board, DA-901 and DA-902, issue G, dated 29 April 2022 and received by Council on 28 June 2022 unless otherwise modified by Council in writing.

The following amendments are to be made to the finishes' schedule/plans:

- Front doors and windows within the Winslow Street elevation are to be timber framed.

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

BASIX Certificate

C36. Under clause 97A(3) of the *Environmental Planning and Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1167342M_06, dated 22 December 2021 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

C. To Impose Condition C38

Deletion of Awning

C38. The proposed awning over the western entry of the office premise on the Willoughby Street elevation is not approved and is to be deleted. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To remove the encroachment)

The modification application meets the requirements of section 4.55(2) and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1) of the Act, which have been satisfied. The proposed modifications are considered substantially the same development. The proposed modifications retain the approved uses and layout of the development as a pair of semi-detached dwellings and an office premises.

Reasons for Approval:

The proposed modifications would not result in any material increase in the overall height or yield of the buildings noting that the original application included a variation to the height of buildings development standard.

The proposed modifications generally seek to resolve the design issues arising through the further development of construction documentation. The proposed development maintains the approved built form character having regard to the location of the development within the Careering Cove Conservation Area.

The application to modify development consent DA336/2020 is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The application was notified in accordance with Council's Community Engagement Protocol from 21 January 2022 until 4 February 2022. The objections raised relate to matters considered in the granting of the original development consent.

The conditions attached to the original consent for Development Application No. **336/20** by endorsed date of **5 May 2021** still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Michael Stephens**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of *the Environmental Planning and Assessment Act 1979* (the 'Act') are to be complied with:
- (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
 - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of *the Environmental Planning and Assessment Act, 1979* (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of *the Environmental Planning and Assessment Act*.

Endorsed for and on behalf of North Sydney Council

25 July 2022

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)