



Ms M Bryant
Foreshore Design Solutions Pty Ltd
PO Box 6037
HAMMONDVILLE NSW 2170

D24/22
JD6 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 24/22/2 - APPROVAL**

Development Consent Number: 24/22

Land to which this applies: 1 Bradly Avenue, Kirribilli
Lot No.: 1 DP: 1091583

Applicant: Ms M Bryant

Proposal: Replacement of a fixed jetty with a finger pontoon, installation of two additional finger pontoons, relocation of mooring piles and dredging works at an existing marina, and associated works

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. **24/22** and registered in Council's records as Application No. **24/22/2** relating to the land described as **1 Bradly Avenue, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **26 September 2022**, has been determined in the following manner:

- 1. Delete the heading "B. Matters to be Completed before the lodgement of an Application for a Construction Certificate", and condition B1, and**
- 2. Insert condition C9, set out below, after condition C8, in the consent granted to DA 24/22 on 26 September 2022 as follows:**

Construction Management Plan

C9. Prior to issue of a Construction Certificate, a Construction Management Plan must be prepared:

- (a) By a suitably qualified person,
- (b) The measures contained in the Construction Management Plan must be implemented prior to the commencement of, and during, works on-site, and

- (c) All works must be undertaken in accordance with the Construction Management Plan.

A copy of the approved Construction Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

- (Reason: To ensure appropriate measures have been considered for operation of the site during all phases of the demolition and construction process in a manner that eliminates or effectively and reasonably minimises environmental impacts of the works, respects adjoining owners' property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

Reasons for Approval:

The proposal involves the modification of the subject consent by deleting condition B1 of the consent requiring preparation of a Construction Traffic Management Plan and replacing this condition with another requiring preparation of a Construction Management Plan instead.

In respect of the requirements of condition B1, Council is satisfied that the requirements of the condition are irrelevant - a traffic management plan is not required as all transport to the site and to undertake the work will utilize vessels on the harbour - therefore the condition is considered to have been applied in error.

Accordingly, it is recommended that the condition be deleted and replaced with another, as set out above.

How community views were taken into account:

In accordance with the provisions of Section 3.4.1 of Council's Community Engagement Protocol, notification of the subject application is unnecessary. This is also in accordance with the provisions of the Act, noting s4.55 (1) states that subsection (2) (c) does not apply to an application made under subsection (1) - ie, the application does not require notification.

The conditions attached to the original consent for Development Application No. **24/22** by endorsed date of **26 September 2022** still apply.

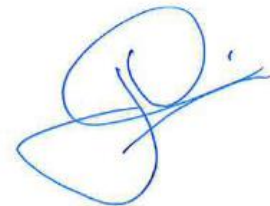
ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Jim Davies** 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 works or any changes to the proposed operation of the works will require 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



20 October 2022

DATE

Signature on behalf of consent authority
JIM DAVIES
EXECUTIVE ASSESSMENT PLANNER