



Made Property (NSW) Pty Ltd
Suite 10.03, 275 Alfred Street
NORTH SYDNEY NSW 2060

D67/21
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 67/21/3 - APPROVAL**

Development Consent Number:	67/21
Land to which this applies:	22-26 Spruson Street, Neutral Bay Lot No.: 5, DP: 10792 Lot No.: 4, DP: 10792 and SP: 1649
Applicant:	Made Property (NSW) Pty Ltd
Proposal:	Section 4.55(1A) modification relating to the demolition of three existing residential flat buildings and construction of a residential flat building containing eleven apartments over two levels of basement parking, associated site works and landscaping
Date of Determination	29 September 2022

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. **67/21** and registered in Council's records as Application No. **67/21/3** relating to the land described as **22-26 Spruson Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **8 September 2021**, has been determined in the following manner:

A. *Impose Condition A5*

Development in Accordance with Plans (s4.55 Amendments)

A5. 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:

- (a) Plans numbered DA-0203/11 Floor Plan - Lower Ground, dated 6 July 2022, drawn by SJB and received on 5 September 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)

Reasons for Approval:

The modification application meets the requirements of section 4.55(1A) 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 modified development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

The proposed modifications are considered substantially the same development and of minimal environmental impact. The proposed modifications to the internal basement storage areas are considered inconsequential.

The proposed modification is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The application was not notified in accordance with Council's Community Engagement Protocol. Nevertheless, the potential impact to surrounding properties has been considered.

The conditions attached to the original consent for Development Application No. **67/21** by endorsed date of **1 September 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

10 October 2022

DATE



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