



Chloe Vandervord
16 French Street
MCMAHONS POINT NSW 2060

D303/20
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 303/20/2 - APPROVAL**

Development Consent Number: 303/20

Land to which this applies: 3 Mil Mil Street, McMahons Point
Lot No.: 1, DP: 76714

Applicant: C Vandervord

Proposal: Section 4.55 (2) application to modify stormwater system and facilitate internal and external changes to dwelling house including replacement and re-configuration of windows and additional timber cladding.

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. **303/20** and registered in Council's records as Application No. **303/20/2** relating to the land described as **3 Mil Mil Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **10 March 2021** has been determined in the following manner:

1. To amend Condition A1 of the consent so as to read as follows:

Development in Accordance with Plans/Documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Description	Prepared by	Dated
CC 006	F	Proposed Lower Ground Floor Plan	Jack Hawkins Architect	12/10/2022
CC 008	F	Proposed Ground Floor Plan	Jack Hawkins Architect	12/10/2022
CC 011	F	East Elevation	Jack Hawkins Architect	12/10/2022
CC 012	F	West Elevation	Jack Hawkins Architect	12/10/2022
CC 013	F	North Elevation	Jack Hawkins Architect	12/10/2022
CC 014	F	South Elevation	Jack Hawkins Architect	12/10/2022
CC 023	F	Roof and Drainage Design - Main Roof	Jack Hawkins Architect	12/10/2022
CC 024	F	Roof and Drainage Design - East and South Lower Roofs	Jack Hawkins Architect	12/10/2022
CC 025	F	Roof and Drainage Design - West Lower Roof	Jack Hawkins Architect	12/10/2022
CC 026	F	Existing Windows To Be Replaced	Jack Hawkins Architect	12/10/2022

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

2. To amend Condition C10 of the consent so as to read as follows:

Stormwater Management and Disposal Design Plan - Construction Issue Detail

C10. Prior to issue of any Construction Certificate, a site drainage management plan must be prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:

- a) compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code;
- c) the stormwater drainage system shall be designed for an average recurrence interval (A.R.I) of 1 in 20 years;
- d) roof stormwater drainage generated by the approved development must be conveyed in a controlled manner by gravity to Mil Mil Street kerb and gutter via the existing cottage's stormwater drainage system; and
- e) ground surface runoff is to be directed to a subsoil dispersion trench to be located at the rear of the site.

A site drainage management plan which complies with this condition must be submitted to the Certifying Authority for approval prior to the issue of any 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 controlled stormwater management and disposal without nuisance)

3. **To amend Condition C15 of the consent so as to read as follows:**

BASIX Certificate

C15. 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. **A473765** 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 any 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)

4. **To delete Condition G4 in the consent.**

The proposal (as modified) involves a number of changes to the approved windows/openings, external materials and stormwater system of the dwelling house alterations and additions. The proposed modification will result in development that is substantially and materially the same as approved by DA303/20 (as demonstrated in the above considerations under Clause 4.55 of the *Environmental Planning and Assessment Act 1979*).

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including the NSLEP 2013) have been described and detailed throughout this report. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Reasons for Approval:

Accordingly, it is recommended that the following conditions are amended in the consent:

- Amend Condition A1 to include amended plans reflecting the proposed changes.
- Amend Condition C10 to reflect modified stormwater system.
- Amend Condition C15 to reflect revised BASIX certificate.
- Delete Condition G4 to reflect modified stormwater system.

How community views were taken into account:

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

The conditions attached to the original consent for Development Application No. **303/20** by endorsed date of **10 March 2021** still apply.

ADVISINGS


- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Miguel Rivera** 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

16 January 2023

DATE


Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)