



Mr M Hinzack
Ford Land Company Pty Ltd
PO Box 501
NEUTRAL BAY JUNCTION NSW 2089

D143/22
MR3(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 143/22/2 - APPROVAL**

Development Consent Number: 143/22

Land to which this applies: 18 Vale Street and 560-562 Miller Street, Cammeray
Lot No.: 1 & 2, DP: 7327288
Lot No.: A, DP 328542

Applicant: M Hinzack - Ford Land Company Pty Ltd

Proposal: Section 4.55(1A) modification to change consent conditions to stage Part C of the consent and delete specified conditions

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. **143/22** and registered in Council's records as Application No. **143/22/2** relating to the land described as **18 Vale Street and 560-562 Miller Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **2 November 2022**, has been determined in the following manner:

Staged Construction

C#. The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a construction certificate for each stage as follows:

Stage	Conditions to be satisfied
Demolition, Excavation and Shoring (and ongoing, where indicated) - First Construction Certificate	C1 Requirements from Ausgrid
	C2 Requirements from NSW Roads and Maritime Services (RMS)
	C5 Dilapidation Report - Damage to Public Infrastructure
	C6 Dilapidation Report Private Property (Excavation)
	C7 Dilapidation Survey Private Property (Neighbouring Buildings)
	C8 Shoring for Adjoining Property

	<p>C9 Structural Adequacy of Adjoining Properties - Excavation Works</p> <p>C10 Geotechnical Report</p> <p>C11 Sediment Control</p> <p>C12 Waste Management Plan</p> <p>C17 Work Zone</p> <p>C28 Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement</p> <p>C30 Tree Bond for Public Trees</p> <p>C31 Tree Protection Measures to be shown on Construction Drawings</p> <p>C32 Protection of Trees</p> <p>C33 Approval for Removal of Trees</p> <p>C35 Asbestos Material Survey</p> <p>C50 Local Infrastructure Contributions</p> <p>C51 Security Deposit/Guarantee Schedule</p> <p>C54 Noise Management Plan - Construction Sites</p>
<p>All other works including Building Works, Stormwater System Works, Landscaping Works and Ancillary Works (and ongoing, where indicated) - Second Construction Certificate</p>	<p>C3 New Tree Planting and Amendments to Landscape Plan</p> <p>C4 Access Report Recommendations</p> <p>C13 External Finishes and Materials</p> <p>C14 Reflectivity Index of Glazing</p> <p>C15 Roofing Materials - Reflectivity</p> <p>C16 No External Service Ducts</p> <p>C18 Maintain Property Boundary Alignment Levels</p> <p>C19 Parking Meter Relocation</p> <p>C20 Bicycle Storage and Parking</p> <p>C21 Accessible Parking Spaces to be Provided</p> <p>C22 Basement Car Park to Comply with Relevant Standards</p> <p>C23 Required Infrastructure Works - Roads Act 1993</p> <p>C24 Obtain Driveway Crossing Permit under S.138 Roads Act 1993</p> <p>C25 Stormwater Management and Disposal Design Plan - Construction Issue Detail</p> <p>C26 On-site Stormwater Detention</p> <p>C27 Pump-out System Design for Stormwater Disposal</p> <p>C29 Footpath, Entries and Fire Exit Details (Mixed-use/ Commercial/Apartments)</p> <p>C34 Garbage and Recycling Facilities</p> <p>C36 Storage of Hazardous or Toxic Material</p> <p>C37 Location of Plant</p> <p>C38 Noise from Plant and Equipment</p> <p>C39 Vibration from Plant and Equipment</p> <p>C40 Air Conditioners in Residential Premises</p> <p>C41 Acoustic Privacy (Residential Apartments)</p> <p>C42 Compliance with Acoustic Report</p> <p>C43 Noise and Vibration Compliance Certification Prior to Issue of Construction Certificate</p> <p>C44 Mechanical Exhaust Ventilation</p> <p>C46 Provision of Accessible Paths of Travel</p> <p>C47 Underground Electricity and Other Services</p> <p>C48 Screen Planting</p>

	C49	Adaptable Housing
	C52	BASIX Certificate
	C53	Outdoor Lighting
	C55	Telecommunication Infrastructure provision

Unless identified above, a condition that must be satisfied prior to the issue of a construction certificate must be satisfied prior to the first construction certificate.

(Reason: To provide for staged construction certificates)

Reasons for Approval:

The proposal (as modified) involves amendments of the consent to reflect the intended staging of construction works for the approved development. The proposed modification will result in development that is substantially and materially the same as approved by DA143/22 (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*.

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

Add the following condition under ***C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)*** to reflect the staged process via two (2) separate construction certificates:

- **C# Staged Construction**
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How community views were taken into account:

The application did not require neighbour notification as per Council's Community Participation Plan. Nevertheless, a submission was received from the rear (north-adjointing) townhouse development at No. 1-11 Cambridge Street, Cammeray. This submission highlighted an objection to the proposed staging of construction works as "*there may be unforeseen outcomes of a site that potentially could be demolished but then left unprotected due to the inability of the Developer to gain development funding.*"

Council response: Council's Senior Building Surveyor was consulted with regard to the staging of works via more than a single construction certificate. This approach is considered common practice for major development such as multi-storey residential flat buildings with basement levels. The potential risks identified by submission are associated with development funding only. These are not relevant to the proposed staging of works and would remain relevant to any construction project, regardless of any works carried out in stages or not.

The conditions attached to the original consent for Development Application No. 143/22 by endorsed date of 2 November 2022 still apply.

ADVISINGS

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



28 February 2023

DATE

Signature on behalf of consent authority
MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER