



Mr David Coyle  
11 Browning Road  
NORTH TURRAMURRA NSW 2074

D40/20  
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 40/2020/2 - APPROVAL**

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**Development Consent Number:** **40/2020**

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**Land to which this applies:** 55A Carter Street, Cammeray  
Lot No.: B, DP: 100876

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**Applicant:** David Coyle

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**Date of Determination:** 17 April 2023

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**Proposal:** Section 4.55(2) modification relating to Development consent DA40/2020 for demolition of the existing building, removal of trees, construction of two semi-detached dwellings with basement parking and Torrens Title subdivision into two lots.

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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. **40/2020** and registered in Council's records as Application No. **40/2020/2** relating to the land described as **55A Carter Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **1 July 2020** 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:

Plan No.	Rev.	Title	Drawn by	Dated
DA.201	08	Basement Floor Plan		23/09/2022
DA.202	08	Ground Floor Plan		23/09/2022
DA.203	08	Level 01 Floor Plan		23/09/2022
DA.204	08	Level 02 Floor Plan		23/09/2022

DA.205	08	Roof Plan	23/09/2022
DA.301	06	North Elevation - Screen Opened	23/09/2022
DA.302	06	North Elevation - Screen Closed	23/09/2022
DA.303	06	East Elevation - Screen Opened	23/09/2022
DA.304	06	East Elevation - Screen Closed	23/09/2022
DA.305	06	West Elevation - Screen Opened	23/09/2022
DA.306	06	West Elevation - Screen Closed	23/09/2022
DA.307	06	South Elevation - Screen Opened	23/09/2022
DA.308	06	South Elevation - Screen Closed	23/09/2022
DA.309	04	East Elevation - Fence	23/09/2022
DA.801	07	Material Board	23/09/2022

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. Modify Condition C33 BASIX Certificate as follows:**

C33. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in **BASIX Certificate No. 1062516M\_04**, dated **19 December 2022** 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)

The modification application meets the requirements of section 4.55(2) of the Act and has been assessed having regard to the original reasons for approval and the matters for consideration outlined in Section 4.15(1) of the Act, which have been satisfied. The proposed development is permissible, does not affect the approved variations to development standards and complies with the relevant provisions in NSLEP 2013. The proposed modifications are generally in accordance with the objectives of the NSDCP 2013.

**Reasons for Approval:**

The proposed development, as modified, is considered substantially the same development as the development originally approved by the North Sydney Local Planning Panel. There are no changes proposed to the approved subdivision.

The proposed modifications are generally minor in nature and do not substantially alter the approved form of the development. The proposed modifications seek to improve the layout and amenity of the dwellings through generally minor modifications and to resolve relevant NCC construction and

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certification issues. The proposed modifications would not have any additional amenity impacts on surrounding properties.

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

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**How community views were taken into account:**

The application was notified in accordance with Council's Community Engagement Protocol from 17 February 2023 until 3 March 2023. No submissions were received. Nevertheless, the potential impact of the proposed modifications has been considered.

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The conditions attached to the original consent for Development Application No. **40/2020** by endorsed date of **1 July 2020** 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



**21 April 2023**

DATE

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Signature on behalf of consent authority  
ROBIN TSE  
**A/TEAM LEADER (ASSESSMENTS)**

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