



C E Waters Development Pty Ltd
Suite 5, L17, 100 Miller Street
NORTH SYDNEY NSW 2059

D92/21
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 92/21/4 - APPROVAL**

Development Consent Number: 92/21

Land to which this applies: 12-14 Waters Road, Neutral Bay
Lot No.: 0, DP: 68360

Applicant: CE Waters Pty Limited

Proposal: Section 4.55(2) modifications to DA92/21 for various modifications to the approved mixed-use development

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. **92/21** and registered in Council's records as Application No. **92/21/4** relating to the land described as **12-14 Waters Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **27 October 2021**, has been determined in the following manner:

1. To insert a new condition A7, C51, C52 and I14 as follows:

Terms of Consent (D92/21/4)

A7. Approval is granted for the following modifications to the design of the proposed development and conditions:

(a) Design Modifications:

Basement Levels 2-5:

- Addition of a goods lift servicing Levels 2 to 4;
- Re-arrangements of service risers, fire stairs, storage rooms and plant rooms; and
- Re-arrangements of car parking spaces, motorcycle parking spaces, bicycle parking spaces

Basement Level 1:

- Addition of a goods lift and re-arrangements of lifts; and
- Re-arrangements of service risers, fire stairs and plant rooms.

Waters Lane Level:

- Revised lift services, modifications to internal layout and associated adjustment to levels, addition of an access ramp, addition of toilet facilities, addition of storage facilitate for waste materials,
- Modifications to the OSD tank and the loading dock turntable;
- Modifications to shopfront details including glazing mullions and louvres to support services;
- Changes to floor levels within Tenancies 02, 03 and provision of access ramps to the public domain; and
- Modifications to the street awning to meet structural requirements.

Waters Road Level:

- Modifications to internal driveway levels and access;
- Addition of plant rooms along Waters Road boundary;
- Changes to the floor level within Tenancy 07;
- Modifications to shopfront details including glazing mullions and louvres to support services; and
- Modifications to the street awning to meet structural requirements.

Level 1:

- Revised glass line to lift lobbies; and
- Revised privacy screen design on the southern elevation for Apartments 1.06 and 1.07.

Level 2:

- Revised glass line to lift lobbies; and
- Revised privacy screen design on the southern elevation for Apartments 2.05 and 2.06.

Level 3:

- Revised glass line to lift lobbies;
- Revised privacy screen design on the southern elevation for Apartments 3.04 and 3.05; and
- Reduction in the top of podium parapet height from 1.5m to 1.2m.

Level 4:

- Revised glass line to lift lobbies; and
- Revised privacy screen design on the southern elevation facing the lightwell for Apartments 4.04 and 4.05.

Roof Level:

- Revised roof top floor plan including an additional plant area.

(b) Modifications to conditions

- A5 - Staging of Construction Certificates
- C10 - Reflectivity of Glazing (CC3B)
- C11 - Roof Materials - Reflectivity (CC3B)
- C12 - No External Service Ducts (CC3B)
- C14 - Staff Shower and Change Facilities (CC3B)
- C15 - Basement Car Parking to Comply with Relevant Standards (CC3A)
- C22 - Footpath, Entries and Fire Exit Details (CC3A)
- C29 - Garbage and Recycling Facilities (CC3A)
- C31 - Location of Plant (CC3A/CC3B)
- C36 - Acoustic Privacy (CC3B)
- C40 - Provision of Accessible Path of Travel (CC3A/CC3B)
- C41 - Adaptable Housing (CC3B)
- C44 - BASIX Certificate (CC3B)
- C45 - Under Awning Lighting (CC3B)
- C48 - Pool Access (CC3B)
- C49 - Swimming Pool Water to Sewer (CC3B)
- C50 - Pool Filters (CC3B)

No approval is given or implied in this consent for any other works, both internal and external, including the deletion of the communal room on the ground floor, within the subject property.

(Reason: To ensure the terms of the consent are clear.)

Ground Floor Communal Room

- C51 The approved communal room on the ground room is to be retained and no approval is granted or implied for the amalgamation of this area to the Apartment 1.06 on the first floor.

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 that the ground floor communal room is retained.)

Bicycle Parking

- C52 Drawing numbered DA-0205 Rev 7, dated 14 November 2022 and prepared by SJB Architects must be revised to provide clear annotations for the bicycle parking bays, totalling thirty-five (35), on Basement Level 5.

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 adequate provision of bicycle parking within the development.)

Placement of Garbage Bins on Garbage Collection Day

114 The placement of garbage bins along Waters Lane frontage must be within the designated areas as shown on Drawing numbered DA-0210 Rev 6, prepared by SJB Architects, dated 10.08.2022, and received by Council on 20 December 2022. The garbage bins must only be placed on the designated area on garbage collection day and must be returned to the bin storage areas within the development within two (2) hours after the collection of garbage/waste materials.

(Reason: To ensure adequate provision for garbage collection and maintaining streetscape.)

2. To modify the heading and the relevant wording of the following conditions to read as follows:

Development in Accordance with Plans/Documentation (\$4.55 Amendments)

A1. The development must be carried out in accordance with the following drawings and documentation:

Plan No.	Rev	Title	Prepared by	Date
DA-0103	4	Site Plan and Analysis	SJB Architects	3/11/2021
DA-0104	4	Demolition	SJB Architects	3/11/2021
DA-0205	9	Floor Plan - Basement 5	SJB Architects	3/11/2021
DA-0206	9	Floor Plan - Basement 4	SJB Architects	3/11/2021
DA-0207	9	Floor Plan - Basement 3	SJB Architects	3/11/2021
DA-0208	9	Floor Plan - Basement 2	SJB Architects	3/11/2021
DA-0209	9	Floor Plan - Basement 1	SJB Architects	3/11/2021
DA-0210	8	Floor Plan - Waters Lane	SJB Architects	3/11/2021
DA-0211	10	Floor Plan - Waters Road	SJB Architects	3/11/2021
DA-0212	7	Floor Plan - Level 1	SJB Architects	3/11/2021
DA-0213	6	Floor Plan - Level 2	SJB Architects	3/11/2021
DA-0214	6	Floor Plan - Level 3	SJB Architects	3/11/2021
DA-0215	6	Floor Plan - Level 4	SJB Architects	3/11/2021
DA-0217	6	Floor Plan - Roof Level	SJB Architects	3/11/2021
DA-0218	6	Roof Plan	SJB Architects	3/11/2021
DA-0501	5	Building Elevations - East (Waters Road)	SJB Architects	3/11/2021
DA-0502	5	Building Elevations - West (Waters Lane)	SJB Architects	3/11/2021
DA-0503	5	Building Elevations - North (Grosvenor St)	SJB Architects	3/11/2021
DA-0504	5	Building Elevations - South	SJB Architects	3/11/2021
DA-0601	8	Section A	SJB Architects	3/11/2021
DA-0602	7	Section B	SJB Architects	3/11/2021
DA-4001	4	Photomontage and Materials - Sheet 1	SJB Architects	3/11/2021
DA-4002	4	Photomontage and Materials - Sheet 2	SJB Architects	3/11/2021
DA-4003	4	Photomontage and Materials - Sheet 3	SJB Architects	3/11/2021

and endorsed with Council’s approval stamp, except as modified by highlighting on the following drawings for D92/21/3:

Plan No.	Rev	Title	Prepared by	Date
DA-0213	7	Floor Plan - Level 2	SJB Architects	22/02/2022
DA-0503	6	Building Elevations - North (Grosvenor St)	SJB Architects	22/02/2022
DA-0602	8	Section B	SJB Architects	22/02/2022

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D92/21/4:

Plan No.	Rev	Title	Prepared by	Date
DA-0205	7	Floor Plan - Basement 5	SJB Architects	14/11/2022
DA-0206	7	Floor Plan - Basement 4	SJB Architects	14/11/2022
DA-0207	7	Floor Plan - Basement 3	SJB Architects	14/11/2022
DA-0208	7	Floor Plan - Basement 2	SJB Architects	14/11/2022
DA-0209	7	Floor Plan - Basement 1	SJB Architects	14/11/2022
DA-0210	7	Floor Plan - Waters Lane	SJB Architects	14/11/2022
DA-0211	7	Floor Plan - Waters Road	SJB Architects	14/11/2022
DA-0212	7	Floor Plan - Level 1	SJB Architects	14/11/2022
DA-0213	7	Floor Plan - Level 2	SJB Architects	14/11/2022
DA-0214	7	Floor Plan - Level 3	SJB Architects	14/11/2022
DA-0215	7	Floor Plan - Level 4	SJB Architects	14/11/2022
DA-0217	7	Floor Plan - Roof Level	SJB Architects	14/11/2022
DA-0218	7	Roof Plan	SJB Architects	14/11/2022
DA-0501	7	Building Elevations - East (Waters Road)	SJB Architects	14/11/2022
DA-0502	7	Building Elevations - West (Waters Lane)	SJB Architects	14/11/2022
DA-0503	7	Building Elevations - North (Grosvenor St)	SJB Architects	14/11/2022
DA-0504	7	Building Elevations - South	SJB Architects	14/11/2022
DA-0601	7	Section A	SJB Architects	14/11/2022
DA-0602	7	Section B	SJB Architects	14/11/2022

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

Staging of Construction Certificates

A5. The issue of Construction Certificates shall be staged as follows:

CC1 - Demolition

This Construction Certificate shall include works for site set-up, strip out, disconnection and demolition of above ground building fabric and structure and services only (excluding any excavation or demolition of below ground services and substructure). This Construction Certificate shall not include any excavation and permanent building works.

If a condition is required to be satisfied prior to the issue of any Construction Certificate and there is no nominated Construction Certificate stage in the heading of the condition, this condition is required to be satisfied prior to the issues of CC1.

CC2 - Shoring and excavation

This Construction Certificate shall include (in order of execution): piling and perimeter shoring works, demolition of existing substructure and services, excavation works. This Construction Certificate shall not include any construction/building works except for the perimeter shoring works.

CC3A - Structure, façade and services up to and including the Waters Road Ground Level

This Construction Certificate shall include the construction of the structures and services of the approved mixed use building up to and including the Waters Road Ground Level.

CC3B - Structure, and services above the Waters Road Ground Level and all façade construction

This Construction Certificate shall include the construction of the remaining structures, and services of the approved mixed-use building above the Waters Road Ground Level as well as the facade.

CC4 - Public Domain and Remaining Works (CC4)

This Construction Certificate shall include public domain works and other remaining works.

(Reason: To enable staging of the Construction Certificate issue process)

Reflectivity Index of Glazing (CC3B)

C10. The reflectivity index (expressed as a per centum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3B). 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.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

Roofing Materials - Reflectivity (CC3B)

C11. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3B).

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 that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

No External Service Ducts (CC3B)

C12. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3B).

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 quality built form of the development)

Staff Shower and Change Facilities (CC3B)

- C14. Shower and change facilities shall be provided and made accessible without charge to staff who work in the building. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (**CC3B**). 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 promote and provide facilities for alternative forms of transport)

Basement Car Parking to Comply with Relevant Standards (CC3A)

- C15. The basement layout must comply with all requirements of the Australian Standard AS2890.1 including the following requirements:
- a) The design of the proposed parking spaces for people with disability must comply with the Australian Standard AS2890.6;
 - b) The design of bicycle parking and storage facilities must comply with the Australian Standard AS2890.3;
 - c) The design of the new driveways must comply with the minimum pedestrian sightline safety in accordance with Figure 3.3 of AS2890.1.

Certification from a suitably qualified and practicing Civil Engineer that the basement design will comply with the requirements of the Australian Standards must be provided to the Certifying Authority for approval prior to issue of the Construction Certificate (**CC3A**).

The Certifying Authority must ensure that the building plans/documentation and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure compliance with the relevant Australian Standards)

Footpath, Entries and Fire Exit Details (CC3A)

- C22. Footpaths, entries and exits and fire exits for the development must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate (CC3B). The design must include (but is not limited to) the following:
- a) cross section along the centre-line of each access point to the building including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed;
 - b) the sections must show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels;
 - c) the sections must show the calculated clearance to the underside of any overhead structure;

- d) a longitudinal section along the boundary line showing how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath must be designed (at a single straight grade of 3% falling to top of kerb) so that it is smooth without showing signs of dipping or rising particularly at entrances; and
- e) a longitudinal section along the gutter and kerb line extending 5 metres past property lines showing transitions.

Details, plans and specifications complying with this condition are to be certified as complying with the Building Code of Australia (BCA) and Council's standard footpath specifications, and the certification, details, plans and specifications must be provided to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate (**CC3A**). Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to the Certifier and North Sydney Council, prior to issue of the relevant Construction Certificate (**CC3A**).

(Reason: To facilitate suitable pedestrian and disabled access to private sites, and to ensure that internal levels reflect footpath boundary levels)

Garbage and Recycling Facilities (CC3A)

C29. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

- a) all internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b) provision for the separation and storage in appropriate categories of material suitable for recycling;
- c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;
- d) if a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay must be provided no more than 2m from the street boundary of the property;
- e) garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- f) garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (**CC3A**).

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.

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

Location of Plant (CC3A/CC3B)

C31. All plant and equipment (with the exception of the equipment to be accommodated within the approved plant area on the roof level) must be located within the basement of the building and must not be located on balconies and other areas on the roof. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of the relevant Construction Certificate (CC3A/CC3B). 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Acoustic Privacy (Residential Apartments) (CC3B)

C36. Noise levels in sole occupancy units of residential apartments must not exceed the following:

Location	Maximum
Habitable Rooms other than Sleeping Areas	40 LAeq (1hr)
Sleeping Areas	35 LAeq (1hr)

The "Maximum" limits are to apply in any hour of a 24-hour period with the windows of the sole occupancy unit closed.

"habitable room" has the same meaning as in the Building Code of Australia.

A floor separating sole occupancy units shall have a weighted standardised impact sound pressure level $L'_{nT,w}$ not more than 55dB when measured in-situ in accordance with AS ISO 140.7-2006 "Field measurements of impact sound insulation of floors" and rated to AS ISO 717.2-2004 "Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation". This clause shall not apply to the floor of a kitchen, bathroom, toilet or laundry in a residential sole occupancy unit.

Mechanical equipment such as lift plant, air conditioning plant servicing the building and pumps shall not be located immediately adjacent bedrooms.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3B).

(Reason: To comply with best practice standards for residential acoustic amenity)

Provision of Accessible Paths of Travel (CC3A/CC3B)

C40. The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises - Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate (**CC3A/CC3B**). 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.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found on the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>.

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

Adaptable Housing (CC3B)

C41. Proposed Units 1.05, 1.06, 2.05, 2.06, 3.04, 3.05, 4.03, 4.04 and 4.06 are to be designed with accessible features for disabled persons and must incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps. These features are to be designed generally in accordance with the relevant Australian Standard 4299 - 1995.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (**CC3B**). 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 equity of access and availability of accommodation in the future for an ageing population)

BASIX Certificate (CC3B)

C44. 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. **1170679M_07** 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 the Construction Certificate (**CC3B**).

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)

Under Awning Lighting (CC3B)

C45. Under awning lighting must be provided to the Grosvenor Street, Waters Road and Waters Lane Street frontage of the site. Such lighting is to be designed to P1 standard in accordance with AS/NZS 1158.3.1. The luminaries must be:

- (a) weatherproof and vandal proof;
- (b) designed in conjunction with Energy Australia so that the system can easily be connected to a public lighting system when available; and
- (c) the location and type of the said luminaries shall be to the satisfaction of Council's Director of Engineering and Property Services.

Plans and specifications complying with this condition must be submitted to the Certifying Authority and the Council's Director of Engineering and Property Services for approval prior to the issue of the Construction Certificate (CC3B). A construction certificate must not be issued without the approval of the Council's Director of Engineering and Property Services. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To enhance the amenity and safety of the footpath adjacent to the premises)

Pool Access (CC3B)

C48. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the barrier is to conform to the requirements of the applicable Australian Standard.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3B). 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 safety of children and make applicant aware of the need to comply with applicable pool fencing legislation)

Swimming Pool Water to Sewer (CC3B)

C49. The swimming pool, including overflow water, must be drained to the sewer. The consent of Sydney Water to dispose of wastewater must be obtained prior to the issue of the Construction Certificate (CC3B).

Plans and specifications complying with this condition and any conditions/requirements of Sydney Water must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3). The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully comply with this condition and any conditions/ requirements imposed by Sydney Water.

(Reason: Water from a swimming pool is classified as wastewater and cannot be legally disposed of into the stormwater system)

Pool Filter (CC3B)

C50. The pool filtering equipment must be encased by a soundproof cover and must be located six (6) metres from any habitable room in a dwelling on a neighbouring property.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3B). 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 noise generated by equipment does not result in offensive noise)

Compliance with Certain Conditions

G28. Prior to the issue of any Occupation Certificate **Conditions C1 (Geotechnical Report), C2 (Compliance with Acoustic Report), C51 (Ground Floor Communal Room) and C52 (Bicycle Parking)** must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

Reasons for Approval:

The proposal satisfies the provisions of Section 4.55 (2) in that the development would be substantially the same as what was approved under DA 92/21 as the proposed modifications will not alter the use and the general form of the development as originally approved.

The proposed modifications would not change the overall level of compliance with the relevant SEPP65/ADG, LEP and DCP provisions and requirements.

The proposed modifications would not change the development outcome in terms of height, bulk and scale, building envelope and appearance of the approved mixed-use development.

The proposal, subject to the imposition of additional conditions, would ensure the amenity of the apartments within the subject mixed-use development.

The proposed modifications would have no material amenity impacts for the adjoining properties.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved with modifications to the relevant conditions and addition of new conditions.

How community views were taken into account:

All likely impacts of the proposed development have been considered within the context of this report.

27 October 2021 still apply.

ADVISINGS

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

8 May 2023

DATE



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