



Mr Nick Wheatley
Development Manager
Level 5, 95 Pitt Street
SYDNEY NSW 2000

D144/22
MH9 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.56 MODIFICATION 144/22/2 - APPROVAL**

Development Consent Number: 144/22

Land to which this applies: 7 -11 Premier Street, Neutral Bay
SP: 122232, SP: 64663 and SP: 8435

Applicant: AP Development No 2 Pty Ltd

Proposal: To modify the consent for the demolition of existing buildings and construction of a residential flat building at 7-11 Premier Street, Neutral Bay by amending Condition C39 in relation to staged construction.

Pursuant to Section 4.56 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **144/22** and registered in Council's records as Application No. **144/22/2** relating to the land described as **7-11 Premier Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **1 February 2023**, has been determined in the following manner:

- To modify the Development Consent DA144/22 by deleting the table in Condition C39 of the Consent and replacing it with the table below.***

Staged Construction (S4.56 Amendments)

C39. *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	Condition to be Satisfied
Stage 1 - Excavation and shoring	C1, C2, C3, C4, C5, C6, C7, C10, C11, C18, C20, C29, C33, C34,
Stage 2 - Building structure and inground services	C15, C16, C17, C31,

Stage 3 - All remaining works including services and internal fit out	C8, C9, C12, C13, C14, C19, C21, C22, C23, C24, C25, C26, C27, C28, C30, C32, C35, C36, C37, C38
--	--

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)

The proposed modifications are generally consistent with the originally approved development application and s.4.56 of the EP&A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the grant of development consent to the originally approved development and is acceptable.

Reasons for Approval:

The issues raised in the submission received has been addressed in the assessment report.

Having regard to the provisions of section 4.56 and 4.15(1) of *the Environmental Planning and Assessment Act 1979*, the proposed development as modified is substantially the same development as originally consented to. The application is, therefore, recommended for **approval**.

How community views were taken into account:

The application did not require notification and as such there were no submissions received.

The conditions attached to the original consent for Development Application No. **144/22** by endorsed date of **1 February 2023** still apply.

ADVISINGS

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

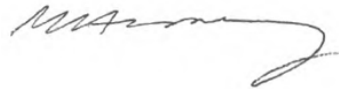
- (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
 - (iii) Council is to be notified at least two (2) days of the intention 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 4.56 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 4.56 of *the Environmental Planning and Assessment Act*.

Endorsed for and on behalf of North Sydney Council

4 August 2023

DATE



Signature on behalf of consent authority
MICHAEL HORNERY
EXECUTIVE PLANNER (ASSESSMENTS)