



Mr David Macpherson
Cbus Property Sydney Residential Pty Ltd
Suite 1, Level 23, 1 Farrer Place
SYDNEY NSW 2000

D64/23
RW (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 64/23/3 - APPROVAL**

Development Consent Number: 64/23

Land to which this applies: 88 Alfred Street South, Milsons Point
Lot No.: 0, SP: 96632

Applicant: Cbus Property Pty Ltd

Proposal: Modification application to include additional detailing in plans and removal of grille on southern elevation

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. **64/23** and registered in Council's records as Application No. **64/23/3** relating to the land described as **88 Alfred Street South, Milsons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **13 June 2023**, has been determined in the following manner:

A. Add Condition A4 as follows:

Development in Accordance with Plans (s4.55 Amendments)

A4. The development being carried out in accordance with plans identified in Condition A1 of the consent and A4 of the modification to consent endorsed with Council's approval stamp, except as modified by the modifications shown on:

Plan No.	Rev	Description	Prepared by	Dated
AD-01.100	3	Site Plans - Site Plan	Bates Smart	25/08/2023
AD-03.004	14	General Arrangement Plan Basement 001	Bates Smart	25/08/2023
AD-03.116	11	General Arrangement Plan Level 16	Bates Smart	25/08/2023
AD-03.117	9	General Arrangement Plan - Roof Level	Bates Smart	25/08/2023
AD-04.004	8	Concrete Profile Plan Basement 001	Bates Smart	25/08/2023
AD-10.203	4	Façade Details - West Podium Plan and Elevation	Bates Smart	25/08/2023
AD-10.900	3	Waterproofing B001 Balcony Details	Bates Smart	4/09/2023

AD-08.001	8	External Elevation - North and West	Bates Smart	4/09/2023
AD-08.002	10	External Elevation - East and South	Bates Smart	4/09/2023
AD-08.100	5	External Elevation - West Elevation	Bates Smart	25/08/2023
AD-08.101	5	External Elevation - East Elevation	Bates Smart	25/08/2023
AD-08.103	8	External Elevation - South Elevation	Bates Smart	25/08/2023
AD-09.001	10	Section A-A and B-B	Bates Smart	25/08/2023
AD-09.003	10	Section E-E and F-F	Bates Smart	25/08/2023
AD-09.004	11	Section G-G and H-H	Bates Smart	25/08/2023
AD-12.505	2	Waterproofing - B001 Balcony Details	Bates Smart	25/08/2023

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

C. Add Condition C10 as follows:

Noise from Plant and Equipment

C10. The use of all plant and equipment installed on the premises must not:

- a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver . The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry shall be applied.
- b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

G. Add Condition G4 as follows:

Noise Certification

G4. Prior to issue of the any Occupation Certificate a certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent here-in.

(Reason: To ensure acoustic amenity)

I. Add Condition 12 as follows:

Noise and Vibration Impact

12. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

Reasons for Approval:

The proposed modifications are considered to be generally consistent with the original approved development application and s.4.55 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 granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55 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:

No notification is required for the modification application in accordance with the North Sydney Community Participation Plan.

The conditions attached to the original consent for Development Application No. **64/23** by endorsed date of **13 June 2023** still apply.

ADVISINGS

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

7 November 2023

DATE

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