



The Trustee for Aidop No 3 Unit Trust  
Suite 5.06 Level 5, 55 Miller Street  
PYRMONT NSW 2009

D86/22  
TH3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.56 APPLICATION 86/22/3 - APPROVAL**

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**Development Consent Number:** 86/22/3

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**Land to which this applies:** 96-98 Ben Boyd Road, Neutral Bay  
Lot No.: A DP: 348364

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**Applicant:** The Trustee for Aidop No 3 Unit Trust

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**Proposal:** To modify a consent by the submission of amended plans with amendments to the southern and western balconies to satisfy the intent of Condition C51 Balconies – Design Amendments.

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The 4.56 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 3 April 2024.

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. **86/22** and registered in Council's records as Application No. **86/22/3** relating to the land described as **96-98 Ben Boyd Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 30 November 2022, has been determined in the following manner: -

**A. Add Condition A8 as follows:**

**Development in accordance with Plans (s4.56 Amendments)**

A8 The development being carried out in accordance with plans identified in Condition A1 of the consent endorsed with Council's approval stamp, except as modified by the modifications shown on:

Plan No.	Rev	Title	Drawn by	Received
DA 1002	H	Site Plan	MHNDUNION	16/02/2024
DA 2002	H	Ground Floor Plan	MHNDUNION	17/01/2024
DA 2003	H	Level 1 Floor Plan	MHNDUNION	17/01/2024
DA 2004	H	Level 2 Floor Plan	MHNDUNION	17/01/2024
DA 2005	H	Level 3 Floor Plan	MHNDUNION	17/01/2024
DA 2006	H	Level 4 Floor Plan	MHNDUNION	17/01/2024
DA 2007	H	Level 5 Floor Plan	MHNDUNION	17/01/2024
DA 3001	H	South Elevation	MHNDUNION	17/01/2024
DA 3003	H	West Elevation	MHNDUNION	16/02/2024
DA 9103	H	Site Coverage Diagram	MHNDUNION	16/02/2024

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

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

**B. That Condition C51 of the consent be deleted**

**Reason for approval:**

The Panel was satisfied that the amended scheme provided the articulation sought in the Land and Environment Court approval and would achieve the intention of Condition C51.

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

The subject application was notified to adjoining properties and the Neutral Precinct inviting comment between 23 February – 8 March 2024. There were no submissions raised following notification of the modification application.

The conditions attached to the original consent for Development Application No. 86/22 by endorsed date of 30 November 2022 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Thomas Holman**. 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 & 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 & Assessment Act.

**Endorsed for and on behalf of North Sydney Council**

03 April 2024

\_\_\_\_\_  
DATE

*Thomas Holman*

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Signature on behalf of consent authority  
THOMAS HOLMAN  
**SENIOR ASSESSMENT OFFICER**