



Fabcot Pty Ltd  
1 Woolworths Way  
BELLA VISTA NSW 2153

D339/04  
JD6 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.56(1) MODIFICATION 339/04/4 - APPROVAL**

---

**Development Consent Number:** 339/04

---

**Land to which this applies:** 1-7 Rangers Road, Neutral Bay  
Lot No.: 2, DP: 1091373

---

**Applicant:** Fabcot Pty Ltd

---

**Proposal:** S4.56(1) modification application to delete **Condition I1** requiring trading of existing supermarket at Nos. 1-7 Rangers Road.

---

Pursuant to Section 4.56(1) of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **339/04** and registered in Council's records as Application No. **339/04/4** relating to the land described as **1-7 Rangers Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **15 June 2005**, has been determined in the following manner:

**1. Condition I1 is deleted.**

---

**Reasons for Approval:**

At the time the original application was being considered, the Land and Environment Court of NSW was concerned that the approval of a Woolworths supermarket at 1-7 Rangers Road may result in Woolworths seeking to close the existing Grosvenor Street store, and only operate from a single location in Neutral Bay.

It was the view of the Court that should this situation occur, the impact of a closure of the Grosvenor Street store may result in adverse economic and traffic impacts associated with the redirection of trade to the new Rangers Road store. This potential impact led to imposition of condition I1, which means

---

---

that the Rangers Road store's development consent would lapse, forcing that store's closure, should the Grosvenor Street store cease trading.

There have been substantial changes in the economic and retail environment since 2005. Additionally, the adoption of alternative supermarket shopping methods including online ordering provide customers with a greater level of choice. In addition, there has been a growth in the number of supermarket and food/grocery outlets in and around Neutral Bay. Combined, these changes will reduce parking and traffic demands resulting from a redirection of sales across a number of different stores across the local area, if the Grosvenor Street store was to close, rather than only to the Rangers Road store. Accordingly, there will be a spreading or dilution of impacts should the Grosvenor Street store close, either temporarily or permanently, including on traffic and parking.

Consequently, a condition of consent such as that proposed to be deleted, which connects the operation of one store to another store, is considered inconsistent with how a consent authority manages and considers economic impact in today's retail environment.

It is considered that the deletion of Condition I1 would not inhibit or limit supermarket services being provided to the Neutral Bay community, including during a temporary closure associated with redevelopment of the Grosvenor Street store.

The modification application meets the requirements of Section 4.56(1) of the Act, and the assessment has taken into consideration reasons for approval of the original application and the matters for consideration outlined in Section 4.15(1) of the Act, which have been satisfied.

---

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

The application was notified in accordance with Council's consultation protocol and three submissions were received. Pertinent issues raised have been considered in assessment of the application.

---

The conditions attached to the original consent for Development Application No. **339/04** by endorsed date of **15 June 2005** still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Jim Davies**. 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(1) 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(1) of *the Environmental Planning and Assessment Act*.

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

**1 March 2024**

DATE



Signature on behalf of consent authority  
JIM DAVIES  
**EXECUTIVE PLANNER (ASSESSMENTS)**