



Mr J Cottee  
Built Developments Pty Ltd  
Level 4, 185 Clarence Street  
SYDNEY NSW 2000

D269/23  
JD6 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 269/23/2 - APPROVAL**

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**Development Consent Number:** 269/23

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**Land to which this applies:** 41 McLaren Street, North Sydney  
Lot No.: 1, DP: 557103

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**Applicant:** J Cottee, Built Developments Pty Ltd

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**Proposal:** To modify a condition of the Stage 2 consent for a new school (change of use of existing building) including fit-out of levels 3-7 and landscaping of terraces on levels 3 & 6

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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. **269/23** and registered in Council's records as Application No. **269/23/2** relating to the land described as **41 McLaren Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **6 March 2024**, has been determined in the following manner:

**1. To modify condition C5 as follows:**

**Upgrade of Existing Building - Fire Spread and Safe Egress**

C5. Pursuant to clause 64 of the EP&A Regulation 2021, aspects of the existing building must be brought into conformity with the National Construction Code (NCC).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with the following provisions of the NCC:

- **Sections C, D & E of the NCC/BCA 2022, Volume 1**

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

Notes:

- 1) The Principal Certifier must be satisfied that the plans and specifications submitted prior to the issue of any Construction Certificate comply with the requirements of this condition.
- 2) The Principal Certifier issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.
- 3) Where this condition specifies compliance with the performance requirements of the NCC, the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters.

(Reason: Application of Regulations relating to Fire and Life Safety)

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**Reasons for Approval:**

The proposal involves the modification of a consent to amend Condition C5, to update the version of the BCA to which the condition refers.

Accordingly, it is recommended that the condition be amended as proposed.

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

None, notification was not required.

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The conditions attached to the original consent for Development Application No. **269/23** by endorsed date of **6 March 2024** 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 4.55 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**

**11 June 2024**

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DATE

*James M Davies*

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