

Loris Minassian  
20 Bay Road  
WAVERTON NSW 2060

D472/15  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979  
(AS AMENDED)**

**Notice to Applicant of Determination of Request  
to Modify a Development Consent**

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. **472/15** and registered in Council's records as Application No. **472/15/3** relating to the land described as **20 Bay Road, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 12 May 2016, has been determined in the following manner: -

**1. To insert the following new Conditions A4 and A5, as follows: -**

**Development in Accordance with Plans (4.55 Amendments)**

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

- (a) Drawings numbered S96-1 and S96-3, Revision A, dated 15 December 2018, drawn by Eni Interior Design, and received by Council on 15 February 2018

except as amended by the following conditions and this consent.

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

**No Approval for Bay Window Alterations**

A5. No approval is granted or may be inferred for the bay window in DA472/15/3 to be converted to operable doors and full height windows (Windows 14, 15 and 16) as depicted in Drawings numbered S96-1 - S96-3, Revision A, dated 15 December 2018, drawn by Eni Interior Design, and received by Council on 15 February 2018. The modification to this window is to be deleted from the development.

The Certifying Authority is to ensure the works are deleted from any amended Construction Certificate, that no works in relation to this component of the development are not undertaken and that the original bay window is retained in its current form.

*Note: The application has not addressed the relevant sections of North Sydney Development Control Plan 2013 for development in Conservation Areas generally or the Area Character Statement for the Edward Street Conservation Area.*

*In circumstances where an applicant has not addressed applicable standards, there is no basis to vary the applicable controls.*

(Reason: To clarify the terms of consent, to ensure that significant original features of dwellings located within the Edward Street Conservation Area are preserved.

The conditions attached to the original consent for Development Application No. 472/15 by endorsed date of 12 May 2016 still apply.

## **ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Kim Rothe**. 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (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 Certifying Authority 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 & 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 & Assessment Act.

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DATE

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