

Original signed by Robyn Pearson on 16/10/2018  
Date determined: 16/10/2018  
Date operates: 16/10/2018  
Date lapses: 16/10/2023

## Development Consent No. 21/14/5 & 233/14/5

### Section 4.56 Application

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#### Applicant's Name

Platform Project Services Pty Ltd

#### Land to which this applies

1 and 3 Premier Street, Neutral Bay  
Lot No.: 10, DP: 1221987

#### Proposal

Section 4.56 application to modify DA 21/14 and DA 233/14 with regards to the modification to Condition C21.

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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. **21/14/5 and 233/14/5** and registered in Council's records as Application No. **21/14 and 233/14** relating to the land described as **1 and 3 Premier Street, Neutral Bay**.

Your request for the modification of the Development Consents DA 21/14 and DA 233/14 that became operational on 17 August 2016 has been determined in the following manner:

#### **Modify Condition C21 under both DA21/14 and DA233/14, as follows:**

#### **Stormwater Management and Disposal Design Plan – Construction Issue Detail**

- C21. Prior to issue of any Construction Certificate, a site drainage management plan must be prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ 3500.3.2003, National Plumbing and Drainage Code.
  - b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity via a direct connection to Council's stormwater gully pit in Premier Street. When a direct connection to the pit option is implemented then the pipeline within the footpath area must have a minimum cover of 300 mm.

- c) Conveyed by gravity, via a direct connection to a new stormwater gully pit in Premier Street, which is to be constructed in front of proposed development. The new – minimum 375 mm reinforced concrete pipeline in Premier Street is to be constructed between the new pit and existing pit across the road of proposed development. Within the road reserve, pipe must have a minimum cover of 450 mm.
- d) The applicant must engage a specialist Hydraulics Engineer to carry out an evaluation of Council’s stormwater drainage system and the effect of the proposed development on this system. The results of this evaluation must be submitted with all other drainage details to Council for approval prior to issue of any Construction Certificate by the Certifying Authority.
- e) All civil and drainage works within the road reserve must be designed and built in accordance with Council’s current “Infrastructure Specification”. Prior to issue of the Construction Certificate the applicant must have engineering plans and specifications, prepared by a qualified civil drainage design engineer. Council must approve the plans and specifications, in writing, prior to issue of any Construction Certificate by the Certifying Authority. The documentation must provide engineering construction detail for the following public infrastructure works that must be completed as part of the approved development. Council reserve the right of keeping all bonds on infrastructure works for 12 month defects liability period.
- f) **Video inspection** must be carried out of completed drainage works that are to revert to council and a video tape forwarded to council’s development engineer to support the certification.
- g) The stormwater drainage system shall be designed for an average recurrence interval (A.R.I.) of 1 in 20 years.
- h) All **redundant** stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.
- i) Pipelines within the area of new driveway crossing must be hot dipped galvanised steel (rectangular) hollow section with a minimum wall thickness of **4.0** millimetres and a section height of **100** millimetres.
- j) Any proposed fence/building structure is to be constructed so as not to impede the natural overland flow.
- k) Provision is to be made for the **collection and disposal** in an approved manner of any overland flow entering the subject property, or concentrated as a result of the proposed works.
- l) **Surface inlet pits** must be located to catch surface flows, and must be provided at all pipe junctions, changes in pipe direction exceeding 45 degrees and at the site boundary (within the property) prior to connection to the public drainage system and must be of sufficient size to accept the flow.
- m) All **sub-soil seepage** drainage must be discharged via a suitable silt arrestor pit. Sign must be installed adjacent to pit stating “This sediment /silt arrestor pit shall be regularly inspected and cleaned”. Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS 3500.3.2 by an appropriately qualified and practising civil engineer shall be submitted with the application for a Construction Certificate.

- n) The design and installation of the Rainwater Tank must comply with BASIX and **Sydney Water** requirements. Overflow from tank shall be conveyed in a controlled manner by gravity to the stormwater disposal system.
- o) The rainwater tank must be plumbed to appropriate end uses (e.g. toilet flushing, laundry, water features and garden irrigation) to ensure sufficient use of tank water so that capacity exists to accommodate rain water from storm events.
- p) Prevent any **stormwater egress** into adjacent properties by creating physical barriers and surface drainage interception.
- q) The use of the **On Site Detention** for storm water disposal must be design in accordance with the following criteria:
- On site detention must be provided to ensure that the maximum discharge from the site does not exceed discharge which would occur during a 1 in 5-year storm for the time of concentration determined for the particular site, for the existing site conditions. All other stormwater run-off from the site for all storms up to the 1 in 100-year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.
  - The OSD system shall be regularly maintained and serviced.
  - The creation of a **Positive Covenant** (under the provision of the Conveyance Act) on the property title to ensure the maintenance of **OSD** on the property being developed. Prior to Occupation Certificate details are to be submitted to Council for approval before registration with the Land Titles Office.
- r) Provide subsoil drainage to all necessary areas with **pump out** facilities as required.
- s) No drainage disposal to the street gutter from a pump system to be provided.
- t) The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:
- The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20-year storm;
  - The pump system shall be regularly maintained and serviced, every six (6) months;
  - The creation of a **Positive Covenant** (under the provision of the Conveyance Act) on the property title to ensure the maintenance of the Pump System on the property being developed. Prior to Occupation Certificate, details are to be submitted to Council for approval before registration with the Land Titles Office.

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plans from Council and specifications, satisfying the requirements of this condition, are referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

**Delete Conditions C22 'On-site Detention' and C23 'Pump out system for stormwater design' under both DA21/14 and DA233/14**

No other conditions under either DA21/14 or DA233/14 require amendment under this application.

**Reason for approval**

The proposed modifications are considered to be consistent with the reasons given by the Land and Environment Court in the granting of the consent to the DA.

**How were community views taken into account in making the decision**

The Section 4.56 application was not notified in accordance with Section 4.4.9 in Part A of NSDCP 2013 given the modification relates to the re-wording of a stormwater condition. However, the community views were taken into account when the original application was modified and throughout the Court process arising from the appeal heard in the Land and Environment Court.

The conditions attached to the original consent for Development Consents DA 21/14 and DA 233/14 by endorsed date of 17 August 2016 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Luke Donovan**. 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 4.56 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.

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
TEAM LEADER (ASSESSMENTS)