

Development Consent No. 108/14

Section 4.55 Application

Applicant's Name

Paul McNamara

Land to which this applies

3 Oak Street, North Sydney
Lot No. 111, DP 597246

Proposal

Internal modification to first floor/attic level ensuite.

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. **108/14** and registered in Council's records as Application No. **108/14/2** relating to the land described as **3 Oak Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 July 2014, has been determined in the following manner:

- (A) To delete Conditions (A1) of the consent and insert in lieu thereof the following new condition namely:

Development in Accordance with Plans (S96 Amendments)

- A1. The development being carried out in accordance with drawings numbered 1, 2, 3 & 4 of 4, dated 3 June 2014, drawn by Tony Martin Planning, and received by Council on 3 June 2014, and endorsed with Council's approval stamp, except as modified by highlighting on drawings numbered 1, 2, 3 & 4 of 4, dated 3 October 2018, drawn by Tony Martin Planning, and received by Council on 27 September 2018.

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

- (B) To modify condition C18 with reference to the new BASIX Certificate, as follows:**

BASIX Certificate

C18. Under clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A 172 345_02 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Reason for approval

The proposed modifications have been considered against the relevant provisions of the *Environmental Planning and Assessment Act 1979*, *North Sydney Local Environmental Plan 2013*, *North Sydney Development Control Plan 2013* and all other relevant statutory Instruments and is considered to satisfactorily address those requirements.

Having regard to the provisions of sections 4.15 and 4.55 of the Act, the proposed development as modified is substantially the same development as originally approved.

How were community views taken into account in making the decision

North Sydney Development Control Plan 2013 does not require the notification of Modification of Consent Applications which it determines will not substantially change the originally approved development or which will not disadvantage neighbouring land.

The proposed bathroom and alterations to windows do not introduce new impacts or discernably alter the impacts of the approved development. The application satisfies Section 4.5.1 within the Development Control Plan and Clause 4.15 (2) (c) within the Act and the application has not been notified.

The conditions attached to the original consent for Development Application No. 108/14 by endorsed date of 2 July 2014 still apply.

ADVISINGS

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

DATE

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