

Original signed by: Geoff Mossemenear Dated: 16/4/2019

Modog Pty Ltd
PO Box 222
CAMMERAY NSW 2062

D301/16
GM(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION - REFUSAL**

Development Number:	301/16
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Land to which this applies:	29-33 Myrtle Street and 13 Eden Street, North Sydney Lot No. 1, DP 1229983
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Applicant:	Modog
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Proposal:	To modify consent for first use of the eleven (11) ground floor tenancies
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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. **301/16** and registered in Council's records as Application No. **301/16/5** relating to the land described as **29-33 Myrtle Street and 13 Eden Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 24 November 2016, has been refused.

Reason for refusal:

1. The development to which the consent as modified relates is not substantially the same development as the development for which consent was originally granted as required by Section 4.55 (2) (a) of the Environmental Planning & Assessment Act 1979.
2. The proposed modification is inconsistent with the reasons for the granting of development consent to the originally approved development as required by Section 4.55 (3) of the Environmental Planning & Assessment Act 1979.
3. The modification would not ensure that the amenity of the surrounding locality is maintained.

How community views were taken into account:

Adjoining properties, and the Hayberry Precinct were notified of the proposed modification between 22 March 2019 and 5 April 2019.

The following submissions were received:

Eight written submissions all objecting to 24 hour operation on the basis of adverse impacts on their residential amenity.

Any variation to the Development Consent can only be made with the written approval of the Council. Major variations will require a new or amended Development Consent.

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.

Section 4.55 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act, 1979.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
**GEOFF MOSSEMENEAR
EXECUTIVE PLANNER**