

**Original signed by: Luke Donovan Dated: 11/7/2019**

Modog Pty Ltd  
PO Box 222  
CAMMERAY NSW 2062

D19/16  
LD(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 19/16/8 – APPROVAL**

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**Development Consent Number:** 19/16

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**Land to which this applies:** 562A-564 Miller Street, Cammeray  
Lot No. 10, DP 11908

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**Applicant:** Modog Pty Ltd

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**Proposal:** Section 4.55 (1A) application to modify DA 19/16 in regard to modifications to apartments G.01 and G.02 relating to bathrooms, laundries and adding store rooms.

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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. **19/16** and registered in Council's records as Application No. **19/16/8** relating to the land described as **562A-564 Miller Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 4 October 2017, has been determined in the following manner: -

**1. To modify Conditions A4 and C42 as follows:**

**Development in Accordance with Plans (S4.55 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 by clouding on:

Plan No.	Issue	Title	Drawn by	Received
S96.100	C	Site plan	Julie Cracknell & Peter Lonergan	15.09.2016
S96.101	C	Level 1	Julie Cracknell & Peter Lonergan	15.09.2016
S96.102	C	Level 2	Julie Cracknell & Peter Lonergan	15.09.2016
S96.103	C	Level 3	Julie Cracknell & Peter Lonergan	15.09.2016
S96.104	C	Level 4	Julie Cracknell & Peter Lonergan	15.09.2016

S96.105	C	Level 5	Julie Cracknell & Peter Lonergan	15.09.2016
S96.106	C	Level 6	Julie Cracknell & Peter Lonergan	15.09.2016
S96.107	C	Roof	Julie Cracknell & Peter Lonergan	15.09.2016
S96.201	C	Cross sections	Julie Cracknell & Peter Lonergan	15.09.2016
S96.301	C	East elevation	Julie Cracknell & Peter Lonergan	15.09.2016
S96.302	C	West elevation	Julie Cracknell & Peter Lonergan	15.09.2016
S96.303	C	North & south elevations	Julie Cracknell & Peter Lonergan	15.09.2016
S96.401	C	Materials & Finishes	Julie Cracknell & Peter Lonergan	15.09.2016
LPDA 16-320/1	G	Landscape Plan	Conzept Landscape Architects	15.09.2016
LPDA 16-320/1	C	Landscape Plan Detail	Conzept Landscape Architects	15.09.2016

as modified by the modifications shown by clouding on:

Plan No.	Issue	Title	Drawn by	Received
S96.01	C	Site plan	Julie Cracknell & Peter Lonergan	15.03.2017
S96.02	C	Level 1	Julie Cracknell & Peter Lonergan	15.03.2017
S96.03	C	Level 2	Julie Cracknell & Peter Lonergan	15.03.2017
S96.04	C	Level 3	Julie Cracknell & Peter Lonergan	15.03.2017
S96.05	C	Level 4	Julie Cracknell & Peter Lonergan	15.03.2017
S96.06	C	Level 5	Julie Cracknell & Peter Lonergan	15.03.2017
S96.07	C	Level 6	Julie Cracknell & Peter Lonergan	15.03.2017
S96.08	C	Roof	Julie Cracknell & Peter Lonergan	15.03.2017
S96.09	C	Cross sections	Julie Cracknell & Peter Lonergan	15.03.2017
S96.10	C	East & West elevations	Julie Cracknell & Peter Lonergan	15.03.2017
S96.11	C	North & south elevations	Julie Cracknell & Peter Lonergan	15.03.2017

as modified by the modifications shown by clouding on:

Plan No.	Issue	Title	Drawn by	Received
S96.1.1	D	Lower Ground Floor	Julie Cracknell & Peter Lonergan	6.07.2017
S96.1.2	D	Ground Floor	Julie Cracknell & Peter Lonergan	6.07.2017
S96.03	D	Level 1	Julie Cracknell & Peter Lonergan	6.07.2017
S96.03	D	Level 2	Julie Cracknell & Peter Lonergan	6.07.2017
S96.04	D	Level 3	Julie Cracknell & Peter Lonergan	6.07.2017
S96.05	D	Level 4	Julie Cracknell & Peter Lonergan	6.07.2017
S96.06	D	Level 5	Julie Cracknell & Peter Lonergan	6.07.2017
S96.07	D	Level 6	Julie Cracknell & Peter Lonergan	6.07.2017
S96.08	D	Roof	Julie Cracknell & Peter Lonergan	6.07.2017
S96.09	D	Cross sections	Julie Cracknell & Peter Lonergan	6.07.2017
S96.10	D	East & West elevations	Julie Cracknell & Peter Lonergan	6.07.2017
S96.11	D	North & south elevations	Julie Cracknell & Peter Lonergan	6.07.2017

as modified by the modifications shown by clouding and marked in red on:

Plan No.	Issue	Title	Drawn by	Received
S4.55.06	-	Level 5 Floor Plan	Julie Cracknell & Peter Lonergan	1.03.2019
S4.55.10	-	East & West elevations	Julie Cracknell & Peter Lonergan	1.03.2019

as modified by the modifications shown by clouding and marked in red on:

Plan No.	Issue	Title	Drawn by	Dated
S96 1.1	E	Lower Ground	Julie Cracknell & Peter Lonergan	29/04/2019
S96 1.2	E	Ground Level	Julie Cracknell & Peter Lonergan	29/04/2019
19	F	Part Western Elevation	Julie Cracknell & Peter Lonergan	6/06/19

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)

### **BASIX Certificate**

C42. 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. **698075M\_09** 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)

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The proposed modifications are considered to be consistent with the originally approved development application and s.4.55 of the EP & A Act 1979.

Furthermore, the modifications are predominantly internal to apartments G.01 and G.02 except for additional windows to the western elevation of these apartment which services en-suites These new windows will not impact amenity of adjoining properties given the existing rock face which obscures the lower parts of the building including these new windows.

### **Reason for Approval:**

Geotechnical advice was provided confirming the additional excavation within the undercroft area will not compromise the stability of the subject and/or adjoining land. A Structural Engineer has certified that the structural walls have been designed in accordance with BCA and inspected as conforming with the intent of the structural drawings.

The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

The unauthorised building works have been referred to compliance for further investigation.

Having regard to the provisions of section 4.55 & 4.15(1) of the Environmental Planning and Assessment Act 1979, the application is recommended for **approval**.

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

The application was not notified in accordance with Part A, Section 4.4.9 in NSDCP 2013.

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The conditions attached to the original consent for Development Application No. 19/16 by endorsed date of 4 October 2017 still apply.

**ADVISINGS**

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

**Endorsed for and on behalf of North Sydney Council**

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DATE

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Signature on behalf of consent authority  
LUKE DONOVAN  
**A/EXECUTIVE PLANNER**