

Alexander Francis Marinos  
20 Morden Street  
CAMMERAY NSW 2062

D40/19  
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 40/19/2 – APPROVAL**

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**Development Consent Number:** 40/19/2

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**Land to which this applies:** 20 Morden Street, Cammeray  
Lot No.: 36, DP: 6687

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**Applicant:** Alexander Francis Marinos

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**Proposal:** Modification of Conditions C7 and C8 of consent given to DA40/19

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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. **40/19** and registered in Council's records as Application No. **40/19/2** relating to the land described as **20 Morden Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 May 2019, has been determined in the following manner: -

*To delete Conditions C7 and C8 and add the following new conditions namely:*

**Heritage**

- C7. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area including:
- a) The proposed new front stairs shall be sandstone and/or brick and/or rendered brick and/or Federation tile.
  - b) The existing brick pavement driveway shall be retained.
  - c) The proposed picket fence shall be stepped, constructed from timber pickets with a minimum of 15 mm open spacings between pickets. The maximum height of the fence and wall shall be 1.2 m.
  - d) The new works shall be painted to match the existing exterior colour scheme.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area)

**Driveway Gates**

- C8. The vehicle driveway gates must be redesigned as a swing gate that opens inwards only and matches the picket fence as approved under Condition C7.

The new driveway gates shall be lower in height than the fence because the fence and the gates should step down the slope with a maximum overall height of 1200mm.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure development is wholly within the subject site, to maintain pedestrian safety and is sympathetic to the character of the conservation area)

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**Reason for approval:**

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. The existing context of the dwelling and that of surrounding properties will be significantly enhanced as a result of the proposed modification for a timber picket and internal swing gate, and the modification will ensure the amenity of the residents of the dwelling and as well as that of adjoining residents. No objection is raised amending Condition C7(b) to retain the existing paved driveway. However, Council's Conservation Planner has also recommended the imposition of a condition to ensure that the new gates step-down the site and are lower than the fence.

The provision of timber gates is considered to be acceptable given that they would enhance the Federation appearance of the site within the Cammeray Conservation Area. Condition C8 will be modified to ensure that the gates are to open inwards only. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granting of development consent to the original proposal and are considered to be acceptable.

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

Notification was not required under Council's notification policy pursuant to Section 4 in NSDCP 2013. Nevertheless, it is considered that the modification of consent would provide improved amenity for the residents without causing any unreasonable impacts to the streetscape and/or adjoining properties.

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The conditions attached to the original consent for Development Application No. 40/19 by endorsed date of 7 May 2019 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Andrew Beveridge**. 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  
**ROBYN PEARSON**  
**TEAM LEADER ASSESSMENTS**