

AKL Developments Pty Ltd  
6 Simpson Street  
MOSMAN NSW 2088

D331/18  
LK (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 331/18/3 – APPROVAL**

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**Development Consent Number:** 331/18/3

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**Land to which this applies:** 74 Merlin Street, Neutral Bay  
Lot No.: 0, SP: 20792

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**Applicant:** AKL Developments Pty Ltd

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**Proposal:** Section 4.55(1) modification to DA331/18, to correct the wording of Condition 18 (On-Site Stormwater Detention)

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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. **331/18** and registered in Council's records as Application No. **331/18/3** relating to the land described as **74 Merlin Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 February 2019, has been determined in the following manner: -

**1. To modify Condition C18 (On-Site Stormwater Detention), as follows:**

**On-Site Stormwater Detention**

C18. 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.

Determination of the required cumulative storage must be based on the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Runoff Volume 1, 1987 Edition.

Engineering calculations, design and certification complying with this condition must be provided by an appropriately qualified and practicing Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded)

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**Reason for approval:**

The proposed correction to Condition C18 (On-Site Stormwater Detention) to reflect the wording which was recommended by Council's Development Engineer would not materially change the level of compliance with any environmental planning instrument or NSLEP and NSDCP. Notification of this application was not required. Nonetheless, officers consider that there would be no impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains fully consistent with the objectives of the R4 (High Density Residential) Zone, and the reasons for granting consent originally.

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

There is no requirement to advertise a Section 4.55(1) application, and no neighbour would be impacted by the correction to Condition 18.

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The conditions attached to the original consent for Development Application No. 331/18 by endorsed date of 6 February 2019 still apply.

**ADVISINGS**

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

\_\_\_\_\_  
DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
**TEAM LEADER ASSESSMENTS**