

Original signed by: David Hoy Dated: 13/12/2019

Australian Catholic University
C/- Urbis Pty Ltd
Level 23, Darling Park, Tower 2
201 Sussex Street
SYDNEY NSW 2000

D71/19
MD1(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 71/19/2 – APPROVAL**

Development Consent Number: 71/19/2

Land to which this applies: 40 Edward Street, North Sydney
Lot No.: 1, DP: 703255

Applicant: Australian Catholic University
C/- Urbis Pty Ltd

Proposal: Modify DA No. 71/19 for various modifications including changes to mechanical plant and retaining walls.

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. **71/19** and registered in Council's records as Application No. **71/19/2** relating to the land described as **40 Edward Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 24 July 2019, has been determined in the following manner: -

To insert the following new condition:

Development in accordance with Plans

Development in Accordance with Plans (S4.55 Amendments)

A1. 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 in colour on drawings numbered DA 05, DA 10 & DA 11, rev. F, dated 21.10.19, drawn by DWP, and received by Council on 29 October 2019 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)

Arborist Report and Tree Roots

E22. The tree protection methods contained within the Annexe to the Arboricultural Impact and Appraisal Method Statement prepared by George Palmer dated October 2019 must be undertaken and maintained.

Additionally, no roots greater than 40mm shall be cut without the prior notification to and in consultation with Council.

(Reason: To ensure the ongoing viability of this tree)

The development application has been assessed against the *Environmental Planning and Assessment Act 1979* (the Act), *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013*.

Reason for approval:

The application proposes to alter the shape and location of the plant so that it is outside of the tree protection zone. The application does not propose to delete any conditions, including relating to plant vibration, noise, methods and hours of excavation and construction, and trees.

The proposed altered plant is consistent with the reasons for the grant of original consent. The proposal will neither overlook or overshadow neighbouring properties nor affect heritage significance.

Having regard to the provisions of Section 4.15 of the Act, the application is considered to be satisfactory and therefore, can be approved.

How community views were taken into account:

The subject application does not propose any changes to the plant type or use. The proposal, coupled with Council's Landscape Officer's recommended conditions to protect trees and the original consent, does not include any unreasonable impacts on the site, neighbouring properties or the locality. Compliance complaints are not subject to the application and must be made separately.

The conditions attached to the original consent for Development Application No. 71/19 by endorsed date of 24 July 2019 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.
- (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

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