

**Original signed by: Robyn Pearson Dated: 2/3/2020.**

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 331/18/5 – APPROVAL**

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**Development Consent Number:** 331/18/5

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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 DA 331/18 to correct the wording of Conditions G15 and I5 (Allocation of Spaces)

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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. **331/18/5** 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 Conditions G15 (Allocation of Spaces) and I3 (Allocation of Spaces), as follows:*

**Allocation of Spaces**

G15. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

No. spaces	Use
4	Residential

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

(Reason: To ensure that adequate parking facilities to service the development are provided on site).

**Allocation of Spaces**

13. The allocation of Carparking spaces within the development must be maintained at all times in accordance with the terms of this consent. The allocation of spaces must be maintained in accordance with the following table:

No. spaces	Use
4	Residential

Car parking spaces provided must only be used in conjunction with the approved uses contained within the development. In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

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The proposed modification to Conditions G15 and I3 (Allocation of Spaces) to reflect the reduced number of carparking spaces approved by a previous modification application (DA331/18/2) would not materially change the level of compliance with any environmental planning instrument or NSLEP and NSDCP.

**Reason for approval:**

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.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1) application be approved with modification to Conditions G15 and I3.

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

No referrals were considered necessary due to the fact this application seeks only to amend the wording of two conditions to reflect a reduced parking provision approved by a modification to the original consent.

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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)**