

Rebel MH Neutral Bay Pty Ltd
Attention: Greg Barr
Suite 4, Level 8, 14 Martin Place
SYDNEY NSW 2000

D74/19
LK(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 74/19/3 – APPROVAL**

Development Consent Number: 74/19/3

Land to which this applies: 14-16B Thrupp Street, Neutral Bay
Lot No.: 0, SP: 51823

Applicant: Rebel MH Neutral Bay Pty Ltd
Attention: Greg Barr

Proposal: Section 4.55(1A) modification to DA74/19, which permitted a part four, part five storey residential flat building containing 20 apartments, for a staged Construction Certificate process.

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. **74/19** and registered in Council's records as Application No. **74/19/3** relating to the land described as **14-16B Thrupp Street, Neutral Bay**.

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

1. To add a new condition permitting a staged Construction Certificate process:-

The issue of Construction Certificates shall be staged as follows:

- A5. CC1 This Construction Certificate shall include works for securing and clearing of the subject site (including all demolition), the provision of preliminary services and the setting up of sedimentation fencing. This Construction Certificate shall not include any excavation and other construction/building works.

CC2 This Construction Certificate shall include excavation works, piling and perimeter shoring works. This Construction Certificate shall not include any construction/building works.

CC3 This Construction Certificate shall include the construction of the remaining structures of the approved development.

(Reason: To enable staging of the Construction Certificate issue process).

2. *To modify the following Conditions to provide for the staged Construction Certificate process:-*

A4. External Finishes and Materials (CC3)

B1. Construction Management Program (CC1)

C1. Dilapidation Report Damage to Public Infrastructure (CC1)

C2. Dilapidation Report Private Property (Excavation) (CC1)

C3. Dilapidation Survey Private Property (Neighbouring Buildings) (CC1)

C4. Structural Adequacy of Adjoining Properties – Excavation Works (CC1)

C5. Geotechnical Report (CC2)

C6. Sediment Control (CC1)

C7. Waste Management Plan (CC1)

C8. Skylight(s) (CC3)

C9. Roofing Materials - Reflectivity (CC3)

C10. No External Service Ducts (CC3)

C11. Work Zone (CC1)

C12. Maintain Property Boundary Alignment Levels (CC3)

C13. Basement Car park to comply with relevant standards (CC3)

C14. Required Infrastructure Works –Roads Act 1993 (CC3)

C15. Obtain Driveway Crossing Permit under S.138 Roads Act 1993 (CC3)

- C16. On-Site Stormwater Detention (CC2)
 - C17. Bond for Damage and Completion of Infrastructure Works (CC1)
 - C18. Tree Bond for Public Trees (CC1)
 - C19. Tree Protection Measures to be shown on Construction Drawings (CC1)
 - C20. Protection of Trees (CC1)
 - C21. Approval for removal of Trees (CC1)
 - C22. Garbage and Recycling Facilities (CC3)
 - C23. Asbestos Material Survey (CC1)
 - C24. Location of Plant (CC3)
 - C27. Underground Electricity and Other Services (CC3)
 - C28. Section 7.11 Contribution (CC1)
 - C29. Security Deposit/ Guarantee Schedule (CC1)
 - C30. BASIX Certificate (CC3)
 - C31. Stormwater Management and Disposal Design Plan (CC2)
 - C32. Sydney Water Requirements (CC2)
 - C33. Front Boundary Wall (CC3)
 - D2. Notification of New Addresses (CC3)
 - D3. Sydney Water Approvals (CC2)
 - D5. Arborist to be Commissioned (CC1)
3. *To further modify Condition C14 to remove the reference to the removal of a street tree as follows:-*

Required Infrastructure Works – Roads Act 1993 (CC3)

- C14 Prior to issue of any Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative:

Road Works

- a) Construction of a fully new replacement full frontage concrete footpath and kerb & gutter is required across the entire site frontage in Thrupp Street. A longitudinal section is required along the footpath property boundary and gutter invert level at a scale of 1:50 extending 5m past the property boundary line. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is uniform without showing signs of dipping or rising particularly at entrances.
- b) Cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.
- c) Construction of a fully new road shoulder (maximum grade 5% down towards new gutter) extending to 1.2 metres out from the gutter alignment and across the entire development site frontage.

Drainage Works

Connection of the site stormwater system must be made directly to a newly constructed grated double V-shape gully pit (butterfly type), to front the site on Thrupp Street, approximately to the position of existing one. To accommodate this requirement, the following drainage infrastructure works must be carried out on Council property at the Applicants expense:-

- a) Construction of additional standard grated gully pit with extended kerb inlet (1.8m lintel) in the kerb fronting the subject site in Thrupp Street. The pit must be constructed upstream of proposed vehicular crossing in accordance with Councils "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".
- b) Construction of a new in-ground drainage line under the kerb and gutter at standard depth. The line must connect the new gully pit to the proposed V-shape pit located downstream of the site. The pipes within the road reserve are to be reinforced concrete class 2 with a minimum 375mm diameter and have bedding in accordance with Australian Standard AS 3725 – (Loads on buried concrete pipes). Within the road reserve, pipe shall have a minimum cover of 450mm. The developer shall be responsible for carrying out any service investigations to allow a gravity connection.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Certifying Authorities must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998).

Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act, 1993 approval.

Note: A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993).

The proposed phasing of the construction certificate conditions satisfies the provisions of Section 4.55 (1A) in that the proposed development remains the same as what was approved by DA74/19. The proposed modifications will not alter the use or the form of the development as originally approved, or the content of any condition of consent.

Reason for approval:

The proposed modifications would not change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013. There would be no undue impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains 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(1A) application be approved.

How community views were taken into account:

Notification of the subject application attracted one (1) submission against the application raising concern regarding potential time delays due to the proposed staged Construction Certificate process, and concern regarding a lift overrun. The issues raised in the submission have been considered in the assessment of this application where it is noted that the proposed staging of the Construction Certificate process is unlikely to have any new or different amenity impact, and this application proposes no lift overrun.

The conditions attached to the original consent for Development Application No. 74/19 by endorsed date of 7 August 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

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER(ASSESSMENTS)