

Original signed by: David Hoy Dated: 12/6/2020

Katherine Davies
1 John Street
MCMAHONS POINT NSW 2060

D454/14
MD1(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 454/14/4 – APPROVAL**

Development Consent Number: 454/14/4

Land to which this applies: 1 Johns Street, McMahons Point
Lot No.: 1, DP: 776868

Applicant: Katherine Davies

Proposal: Modification of DA 454/14 proposing changes to conditions G1, G2, G3, G5, G6 and G8.

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. **454/14** and registered in Council's records as Application No. **454/14/4** relating to the land described as **1 John Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 June 2015, has been determined in the following manner: -

1. To modify condition G1 of the consent so as to read as follows:

Infrastructure Repair and Completion of Works

- G1 Prior to the issue of the relevant Occupation Certificate all works relating to the development:
- (a) In the road reserve must be fully completed; and
 - (b) To repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality public assets)

2. To modify condition G2 of the consent so as to read as follows:

Certification of Civil Works

G2. An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of the relevant Occupation Certificate.

(Reason: Compliance with the Consent)

3. To delete Condition G3 from the consent

4. To modify condition G5 of the consent so as to read as follows:

Landscaping

G5 The landscaping show in the approved site plan numbered S96-01, Revision A, prepared by K Davies & J Harvey Architects, dated 10 December 2017, and received by Council on 22 December 2017, must be completed prior to the issue of the relevant Occupation Certificate.

(Reason: To ensure compliance)

5. To modify condition G6 of the consent so as to read as follows:

Damage to Adjoining Properties

G6 Prior to the issue of the final Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

- (a) whether any damage to adjoining properties has occurred as a result of the development;
- (b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- (c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- (d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- (e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

6. To modify condition G8 of the consent so as to read as follows:

Compliance with Certain conditions

G8 Prior to the issue of the relevant Occupation Certificate incorporating the works referred to in Condition C19 of this Consent, Condition 19 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

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

Reason for approval:

The application does not propose any physical alteration/s, physical addition/s, or Notice of Determination amendment/s that would allow or require physical alterations to the approved development. The proposal is consistent with the reasons given for the approval of the original application and with the approved development for the site. The proposal satisfies Section 4.55 of the Act.

How community views were taken into account:

No submissions were received. Additionally, standard conditions within the existing Notice of Determination adequately address any potential, unreasonable adverse impacts to the locality and ensure the protection of the public interest.

The conditions attached to the original consent for Development Application No. 454/14 by endorsed date of 3 June 2015 still apply.

ADVISINGS

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