

Union Street Developer Pty Ltd
343 Pacific Highway
NORTH SYDNEY NSW 2060

D47/20
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 47/20/4 - APPROVAL**

Development Consent Number: 47/20/4

Land to which this applies: 2-4 Blue Street and 1-5 William Street, North Sydney

Applicant: Union Street Developer Pty Ltd

Proposal: Section 4.55(1a) application to modify consent to DA47/20 specifically in relation to a change to the construction hours - Condition E19

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. **47/20** and registered in Council's records as Application No. **47/20/4** relating to the land described as **2-4 Blue Street and 1-5 William Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 22 July 2020 has been determined in the following manner:-

1. To modify Condition E19 of DA 47/20 to read as follows:

Construction Hours

E19. Building construction works must be restricted to the following hours:

Standard Construction Hours		
Location	Day	Hours
B4 Mixed Use	Monday - Friday	7.00 am - 7.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Demolition and excavation works must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only, **except as modified by other conditions of this consent**. For the purposes of this condition:

“Building construction” means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.

“Demolition works” means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.

“Excavation work” means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Reason for Approval:

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP&A Act 1979.

The proposed modifications are consistent with the reasons for the granting of development consent to the originally approved development and is considered to be acceptable.

Given the construction hours will be within the standard construction hours permitted by the DCP, existing imposed conditions are considered to be adequate. The application does not however seek to amend the excavation work hours. It is therefore recommended that excavation work hours be limited to the hours of 8.00 am to 5.00 pm consistent with the originally worded Condition E19.

It is further noted that the COVID Order that previously permitted the extension of construction hours beyond the current consent condition has been revoked by the Minister.

Having regard to the provisions of section 4.55 and 4.15(1) of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

How community views were taken into account:

The application was notified to surrounding properties and the relevant Precinct Committees for a period of 14 days between 16 to 30 April 2021. Council received twelve (12) submissions against the application. The issues raised in the submissions have been addressed in the Planning Report.

The conditions attached to the original consent for Development Application No. 47/20 by endorsed date of 22 July 2020 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 and 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 and Assessment Act.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
LUKE DONOVAN
SENIOR ASSESSMENT OFFICER