

O2 Architecture Pty Ltd
Attention: Stefan Lombardo
Unit 6, 13-15 Smail Street
ULTIMO NSW 2007

D61/20
SG3 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 61/20/3 - APPROVAL

Development Consent Number: 61/20/3

Land to which this applies: 85 Bay Road, Waverton
Lot No.: 0, SP: 77541

Applicant: O2 Architecture Pty Ltd

Proposal: To modify a consent including new air conditioning units,
internal alterations and to amend Condition C3.

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. **61/20** and registered in Council's records as Application No. **61/20/3** relating to the land described as **85 Bay Road, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 August 2020, has been determined in the following manner: -

1. To insert Condition A5 as follows:

Development in Accordance with Plans (s4.55 Amendments)

- A5. 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:

Drawing No.	Revision	Title	Drawn By	Dated
DA02	C	Site Plan	O2 Architecture	27.07.21
DA05	D	First Floor Plan	O2 Architecture	20.09.21
DA06	E	Attic Floor Plan	O2 Architecture	27.07.21
DA07	D	Roof Plan	O2 Architecture	27.07.21

DA09	E	South Elevation	O2 Architecture	27.07.21
DA10	F	Longitudinal Section	O2 Architecture	20.09.21
DA17	D	Section	O2 Architecture	20.09.21

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

2. To amend Condition C3 to read as follows:

Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A report from an appropriately qualified and practicing structural engineer confirming that the proposed works do not rely on the party wall with 3/85 Bay Road for vertical or lateral support and certifies the structural adequacy of the party wall between Unit 3/85 Bay Road and Unit 2/85 Bay Road, Waverton. The report must also outline any measures required to be implemented to ensure that no damage will occur to the party wall during the course of the works must be submitted to the Certifying Authority for approval prior to the issue of any construction certificate.

(Reason: To ensure the protection and structural integrity of the party wall between Unit 3/85 Bay Road and Unit 2/85 Bay Road, Waverton)

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. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Reason for approval:

The proposed development, as modified will allow for the retainment of existing significant internal fabric, particularly the existing ceilings to Unit 1 and Unit 2 of 85 Bay Road, Waverton. The proposal is considered to remain substantially the same as the development for which consent was originally granted.

Having regard to the provisions of section 4.55 & 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 subject application was notified to adjoining properties and Waverton Precinct Committee inviting comment between 13 August 2021 and 27 August 2021. Council received two (2) submissions as part of the notification period. The matters raised in the submissions have been addressed in the assessment report.

The conditions attached to the original consent for Development Application No. 61/20 by endorsed date of 5 August 2020 still apply.

ADVISINGS

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