

Paul Di Cristo
Cerno Project Management
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SYDNEY NSW 2001

D336/20
MS3 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 336/20/2 – APPROVAL

Development Consent Number: 336/20/2

Land to which this applies: 2-4 Winslow Street, Kirribilli
Lot No.: 1, DP: 932077

Applicant: Paul Di Cristo, C/- Cerno Project Management

Proposal: Section 4.55(1A) modification to amended conditions of consent to alter the staging of the approved construction and subdivision works.

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. **336/20** and registered in Council's records as Application No. **336/20/2** relating to the land described as **2-4 Winslow Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 May 2021, has been determined in the following manner: -

1. Amend condition A1 development in Accordance with Plans/documentation

Development in Accordance with Plans/documentation

A1. [insert]

Include an additional drawing to the table in condition A1, as modified by Council's letter dated 26 May 2021 advising of the consent being made operative.

Plan No	Issue	Title	Dated	Prepared	Received
D04769		Plan of Subdivision	4 March 2020	Project Surveyors	23 March 2020

2. Delete condition C1 Subdivision to be registered and impose condition G10 Subdivision to be Registered

Subdivision to be Registered

G10. The Subdivision Certificate referenced in Condition J2 is to be registered prior to the issue of any Occupation Certificate related to the approved semi-detached dwellings on newly created Lots 2 and 3 and the commercial premises on newly created Lot 1.

(Reason: To ensure that the approved uses of each component are located on separate lots, particularly as required for the permissibility of the residential component)

3. Modify condition C34 Section 7.11 Contributions

Section 7.11 Contributions

C34. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 7.11 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

A	B (\$)
Open space and recreation facilities	\$17,669.90
Public domain	\$143.65
Active transport	\$8.33
Community facilities	\$3,549.04
Plan administration and management	\$316.49
The total contribution is	\$21,687.41

The contribution MUST BE paid prior to the issue of any Construction Certificate.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 7.11 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

4. Modify condition C35 Security Deposit/Guarantee Schedule

Security Deposit/Guarantee Schedule

C35. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Infrastructure and Footpath Damage Bond	\$20,000.00
Tree Bond	\$68,000.00
TOTAL BONDS	\$88,000.00

Note: The following fees applicable prior to the issue of the Construction Certificate

Fees	
Section 7.11 Contributions	\$21,687.41
TOTAL FEES	\$21,687.41

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

5. Impose condition J9 Subdivision - Fire Separation

Subdivision – Fire Separation

- J9. Prior to the issue of the relevant Subdivision Certificate, a certificate is to be prepared by a suitably qualified person certifying that the fire separating construction between the terrace buildings has been constructed to restrict fire spread in accordance with the National Construction Code - Building Code of Australia 2019, Volume 2, Amendment 1.

(Reason: to ensure each separate occupancy)

Reason for approval:

The modification application meets the requirements of section 4.55(1A) and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1) of the Act, which have been satisfied. The proposed modifications would provide the scope required for the required subdivision works to be undertaken to provide fire separation between each separate occupancy in accordance with the National Construction Code. The delayed registration of the subdivision does not give rise to any permissibility issue provided the subdivision is registered prior to the issue of the Occupation Certificate as the change of use to semi-detached dwelling requires each dwelling to be located on a separate lot.

The proposed modifications are considered substantially the same development and of minimal environmental impact.

The application to modify development consent DA336/2020 is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The modification application was not notified as the proposed modifications are considered administrative and would not have the potential to cause any material impact to the surrounding community.

The conditions attached to the original consent for Development Application No. 336/20 by endorsed date of 5 May 2021 still apply.

ADVISINGS

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

3 December 2021

DATE

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