

Original signed by     David Hoy     on 9/02/2022

Mr Antony Robb  
Evolution Planning  
PO Box 309  
FRENCHS FOREST NSW 1640

D328/20  
DJH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 328/20/2 - APPROVAL**

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**Development Consent Number:**                      **328/20**

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**Land to which this applies:**                      51 Blues Point Road, McMahons Point  
Lot No.: 2   Sec: 9   DP: 8

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**Applicant:**    Mr Antony Robb, Evolution Planning  
PO Box 309  
FRENCHS FOREST NSW 1640

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**Proposal:**    Modify consent No. 328/20 to amend the terms of  
Condition J5

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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. **328/20** and registered in Council's records as Application No. **328/20/2** relating to the land described as 51 Blues Point Road, McMahons Point.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 4 August 2021, has been determined in the following manner:

**1.        *Condition J5 is amended to read as follows:***

**Release of Subdivision Certificate**

J5.        A Subdivision Certificate must not be issued until **all works on Proposed Lot B, (as shown on the Site Subdivision Plan, Drawing No, DAA-2002/H, prepared by RFA Architects, dated 17/11/2020) are carried out to the satisfaction of the Certifying Authority and all works involving the servicing of Proposed Lot B are completed including:**

- Construction of a fire-rated wall to the existing cottage in proximity to the new boundary with Lot A to satisfy the National Construction Code;

- Completion of all landscaping work on Proposed Lot B, as shown on the Landscaping Plan Dwg No 101 Revision E, prepared by Site Image, dated 9 June 2021; and
- Installation of **the** stormwater drainage line(s) servicing Lot B in accordance with the Stormwater Management Plan, prepared by Core Engineers, dated 3/6/2021, Revision C5.

Prior to the Issue of the Subdivision Certificate, written Certification must be obtained from the Certifying Authority to demonstrate that the above works have been completed. The certification required by this condition must be submitted with the application for Subdivision Certificate.

(Reason: To ensure the development is completed to an acceptable standard prior to registration)

The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and found to be generally satisfactory.

The proposed modifications are considered to be of minimal environmental impact and are consistent with the reasons given for the grant of consent to originally approved development application and s.4.55 of the EP&A Act 1979.

**Reasons for Approval:**

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.

Having regard to the provisions of section 4.55 and 4.15 of the Environmental Planning and Assessment Act 1979, the application is considered to be a reasonable response in the circumstances and is recommended for **approval** subject to amended conditions.

**How community views were taken into account:**

In accordance with Section 3.4.1 of the North Sydney Community Participation Plan, notification of strata subdivision proposals is not required. As such, no submissions were received at Council regarding the proposed strata subdivision.

The conditions attached to the original consent for Development Application No. **328/20/2** by endorsed date of 4 August 2021 still apply.

**ADVISINGS**

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

8 February 2022

\_\_\_\_\_  
DATE

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER - ASSESSMENTS**