

818 Pacific Highway, Gordon NSW 2072

Locked Bag 1006 Gordon NSW 2072

T 02 9424 0000 F 02 9424 0001

DX 8703 Gordon TTY 133 677

E kmc@kmc.nsw.gov.au

W www.krg.nsw.gov.au

ABN 86 408 856 411



Contact: Stuart Ratcliff

Ref: MOD0194/21

19 November 2021

Cpdd Min No. 1 Pty Ltd
91a Shepherd Street
BOWRAL NSW 2576

Dear Sir/Madam

NOTICE OF DETERMINATION OF A SECTION 4.55 APPLICATION

Issued under the Environmental Planning and Assessment Act 1979

Application No.: MOD0194/21
Proposed modification: Modification to Condition 1 of DA0610/17 to incorporate the CTMP into the list of approved documents and allow for morning construction vehicle movements
Property: 810-818 Pacific Highway GORDON NSW 2072

Pursuant to Clause 122 of the Environmental Planning and Assessment Regulation 2000, you are advised that approval has been granted to the application for modification of the consent to the above Development Application.

Reasons for the decision:

The modification of consent application meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development, as modified, is considered to be in the public interest, subject to conditions.

Community views:

The application was notified in accordance with Council's Community Participation Plan. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the modification to the application satisfies the Objects of the Environmental Planning and Assessment Act.

Date of determination: 18/11/2021

Pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979, the development consent is now modified as follows:

The following conditions are modified to read as follows:

“Schedule A – Deferred commencement terms” and “Condition 1 – Construction traffic management plan” within this Schedule, is deleted from the consent, as shown in strikethrough, below:

~~Schedule A – Deferred commencement terms~~

~~The following items listed below shall be addressed to the satisfaction of Ku-ring-gai Council within 24 months of the date of the consent. Upon satisfaction of the items listed in Schedule A, the foreshadowed conditions of Schedule B (as amended) will apply~~

~~1. Construction traffic management plan~~

~~The applicant must prepare and submit a Construction Traffic Management Plan (CTMP).~~

~~The plan is to consist of a report with Traffic Control Plans attached. The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development.~~

~~The report is to contain construction vehicle routes for approach and departure to and from all directions.~~

~~In preparing the CTMP, no vehicular access or egress is to be obtained from the Pacific Highway and Radford Place is to remain free from construction vehicles and be available for free and unimpeded public access at all times.~~

~~The report is to contain a site plan showing entry and exit points. Swept paths are to be shown on the site plan showing access and egress for a 12.5 metre long heavy rigid vehicle and 19.0 metre articulated vehicle.~~

~~The Swept Path Analysis Plans shall show existing trees being retained and their tree protective fencing requirements (consistent with the DA consent). These plans shall be to scale to ensure that truck access and tree fencing requirements do not conflict.~~

~~Show locations for site offices and materials storage areas to be located outside the tree protection zones.~~

~~The Traffic Control Plans are to be prepared by a qualified person (RMS qualified – Prepare a work zone traffic management plan). One must be provided for each of the following stages of the works:~~

- ~~o Demolition~~
- ~~o Excavation~~
- ~~o Concrete pour~~
- ~~o Construction of vehicular crossing and reinstatement of footpath~~
- ~~o Traffic control for vehicles reversing into or out of the site.~~

~~Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users.~~

~~For safety and amenity, no construction vehicle movements are to occur in Dumaresq Street or Radford Place between 8.00am to 9.30am and 3.00pm to 5.00pm Monday to Friday.~~

~~When a satisfactory TMP is received and the relevant fees paid in accordance with Council's adopted Fees and Charges, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved TMP as well as any conditions in the letter issued by Council. Council's Rangers will be patrolling the site regularly and fines will be issued for any non-compliance with this condition.~~

Reason: ~~To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.~~

The note referring to "Schedule B – Conditions of consent", is deleted, as shown in strikethrough, below:

~~Schedule B – Conditions of consent~~

"Condition 1. Approved architectural plans and documentation (new development)" is amended to read the following:

1. Approved architectural plans and documentation (new development)

The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan no.	Drawn by	Dated
DA01 Issue F	Leffler Simes Architects	21/11/18
DA02 Issue F	Leffler Simes Architects	21/11/18
DA03 Issue F	Leffler Simes Architects	21/11/18
DA04 Issue G	Leffler Simes Architects	21/11/18
DA05 Issue F	Leffler Simes Architects	19/09/18
DA06 Issue G	Leffler Simes Architects	21/11/18
DA07 Issue D	Leffler Simes Architects	21/11/18
DA08 Issue D	Leffler Simes Architects	21/11/18
DA09 Issue D	Leffler Simes Architects	21/11/18
DA10 Issue D	Leffler Simes Architects	21/11/18
DA11 Issue D	Leffler Simes Architects	21/11/18
DA12 Issue E	Leffler Simes Architects	21/11/18
DA13 Issue B	Leffler Simes Architects	25/06/18
DA14 Issue E	Leffler Simes Architects	19/09/18
DA15 Issue F	Leffler Simes Architects	20/09/18
DA16 Issue E	Leffler Simes Architects	20/09/18
DA17 Issue E	Leffler Simes Architects	20/09/18
DA18 Issue E	Leffler Simes Architects	20/09/18
DA31 Issue C	Leffler Simes Architects	19/09/18
DA32 Issue PC	Leffler Simes Architects	19/09/18
LA-00 Revision 06	PDS	21.09.18
LA-01 Revision 06	PDS	21.09.18
LA-02 Revision 06	PDS	21.09.18

LA-03 Revision 06	PDS	21.09.18
LA-04 Revision 06	PDS	21.09.18
LA-05 Revision 06	PDS	21.09.18
LA-06 Revision 06	PDS	21.09.18
LA-07 Revision 06	PDS	21.09.18
LA-08 Revision 06	PDS	21.09.18
LA-09 Revision 06	PDS	21.09.18
LA-10 Revision 06	PDS	21.09.18
SY160311 Dwg No. C1.05 Revision B	ACOR Consultants	28.11.17
SY160311 Dwg No. C1.06 Revision D	ACOR Consultants	05.09.18
SY160311 Dwg No. C2.01 Revision B	ACOR Consultants	28.11.17
SY160311 Dwg No. C2.02 Revision B	ACOR Consultants	28.11.17
SY160311 Dwg No. C2.03 Revision B	ACOR Consultants	28.11.17
SY160311 Dwg No. C5.01 Revision A	ACOR Consultants	05.09.18

Document(s)	Dated
Access Report FP1710-01, prepared by Assistive Technology Australia Access,	29 June 2018
Geotechnical investigation ref: 29430ZN2rpt, prepared by JK Geotechnics	16 September 2016
Stage 2 Environment Site Assessment ref: E29430Krpt2, prepared by EIS Environmental Investigation Services	9 December 2016
Arboricultural Assessment & Tree Transplanting Methodology Ref No. TTA/GPDS211117	November 2017
Acoustic Report, (Ref: 3298R20171025jt810PacificHighwayGordon), prepared by Koikas Acoustics	29 November 2017

Except as where modified by MOD0194/21, endorsed with Council's stamp as listed below and except where amended by other conditions of this Development Consent:

Document(s)	Dated
Construction Traffic Management Plan, 80021013, Version 9, prepared by Cardno	30 September 2021
Construction Management Plan, Revision 6	Undated

Reason: To ensure that the development is in accordance with the determination.

The following condition is inserted into the consent as "Condition 2a":

2a. Construction traffic management plan (CTMP)

Traffic management at the site must comply with the approved CTMP (prepared by Cardno, Reference version 9, dated 30/9/2021, and Construction Management Plan, by Novati, Final, Rev 06) as well as the conditions in the approval letter, issued by Council. Council's Rangers will be patrolling the site regularly and fines will be issued for any non-compliance with this condition.

Reason: To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

The following condition is inserted into the consent as “Condition 25a”:

25a. Construction traffic management plan

A construction traffic management plan (CTMP) is to be submitted to Council and approved prior to the commencement of any works.

The plan is to consist of a report with traffic control plans attached.

The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development. The report is to contain the following:

- construction vehicle routes for approach and departure to and from all directions, showing loaded and empty vehicles
- a site plan showing entry and exit points
- swept paths on the site plan showing access and egress for a 12.5 metres long heavy rigid vehicle and 19.0 metres articulated vehicle
- swept path analysis plans showing the existing trees being retained and their tree protective fencing requirements (consistent with this Development Consent) these plans shall be to scale to ensure that truck access and tree fencing requirements do not conflict
- show locations for site offices and materials storage areas which are to be located outside the tree protection zones

The traffic control plans are to be prepared by a RMS accredited consultant. One traffic control plan must be provided to Council for each of the following stages of the works:

- demolition
- excavation
- concrete pour
- construction of vehicular crossing and reinstatement of footpath
- traffic control for vehicles reversing into or out of the site

Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users.

When a satisfactory CTMP is received and the relevant fees paid in accordance with Council's adopted fees and charges, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved CTMP as well as any conditions in the letter issued by Council. No works may be carried out unless Council has approved the CTMP.

Reason: To ensure that appropriate measures have been made to minimise impacts upon surrounding roads during the construction phase.

Reasons for conditions

To safeguard the amenity of the locality.

Those conditions attached to the original consent for the above Development Application No. 0610/17, that are unaffected by the modifications listed in the above notice, still apply.

Right of appeal

If you are dissatisfied with this decision, Section 8.9 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within twelve (12) months of the date on which you receive this Notice.

Right of review

If you are dissatisfied with this decision, Section 8.2 (1)(b) of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination. An application for a review must be made no later than 28 days after the date on which the application for the modification of the development consent was determined. It is recommended that the applicant discuss any request for a review of determination with Council staff before lodging such a request. There is no right of review in respect of designated development and crown development.

Advisory Notes

- a) Council is always prepared to discuss decisions, and in this regard please do not hesitate to contact Stuart Ratcliff on telephone **9424 0000**.
- b) 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 use may require the submission of a modification application under Section 4.55 of the Environmental Planning & Assessment Act 1979. Any proposed modification to the development consent must result in a development that is substantially the same development as that which was originally approved.
- c) Your attention is drawn to the necessity to:

Obtain a **Construction Certificate** under Section 6.4 (a) of the Environmental Planning and Assessment Act 1979 in respect of the modifications approved pursuant to Section 4.55 of the Act.

An application for a Construction Certificate may be lodged with Council. Alternatively, you may apply to an accredited certifier.

All building work must be carried out fully in accordance with the conditions of the development consent and it is an offence to carry out unauthorised building work that is not in accordance with the development consent.

An offence under the Environmental Planning and Assessment Act 1979 and Regulations is subject to a penalty up to \$110,000 and \$11,000, respectively.

Council may also serve a notice and an order to require the demolition/removal of unauthorised building work or to require the building to be erected fully in accordance with the development consent.

On the spot penalties will be imposed for works which are carried out in breach of this consent, or without consent.

A Section 4.55 application is required to be submitted to and approved by Council, prior to commencement of any variations from the approved plans and conditions of consent.



Signature on behalf of consent authority
per Selwyn Segall
Team Leader
Development Assessment