

R Charles
75 Bank Street
NORTH SYDNEY NSW 2060

D58/21
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 58/21/2 - APPROVAL**

Development Consent Number: 58/21

Land to which this applies: 75 Bank Street, North Sydney
Lot No.: 1, Sec 6, DP: 418

Applicant: R Charles

Proposal: To modify a consent DA58/21 to amend the colouration of metal cladding from grey to dark grey (Dulux Monument)

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. **58/21** and registered in Council's records as Application No. **58/21/2** relating to the land described as **75 Bank Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **8 March 2021**, has been determined in the following manner:

1. To amend Condition A1 of the consent so as to read as follows:

A1 Development in Accordance with Plans

Plan No.	Date	Title	Drawn by	Received
2101.02.1	6 March 2021	Site Plan	Antonio Caminiti	8 March 2021
2101.02.2	6 March 2021	Site Analysis	Antonio Caminiti	8 March 2021
2101.02.4	6 March 2021	Concept Stormwater Drainage Plan	Antonio Caminiti	8 March 2021
2101.04.1	6 March 2021	Demolition - Lower Ground Floor	Antonio Caminiti	8 March 2021
2101.04.2	6 March 2021	Demolition - Ground Floor	Antonio Caminiti	8 March 2021
2101.04.3	6 March 2021	Demolition - Roof Level	Antonio Caminiti	8 March 2021
2101.05.1	6 March 2021	Proposed - Lower Ground	Antonio Caminiti	8 March 2021
2101.05.2	6 March 2021	Proposed - Ground Floor	Antonio Caminiti	8 March 2021
2101.05.3	6 March 2021	Proposed - First Floor	Antonio Caminiti	8 March 2021
2101.05.4	6 March 2021	Proposed - Roof Plan	Antonio Caminiti	8 March 2021
2101.06.1	6 March 2021	Elevations 1 - West Elevation (Bank Street)	Antonio Caminiti	8 March 2021
2101.06.2	6 March 2021	Elevations 2 - North Elevation	Antonio Caminiti	8 March 2021
2101.06.3	6 March 2021	Elevations 3 - East Elevation	Antonio Caminiti	8 March 2021

Plan No.	Date	Title	Drawn by	Received
2101.06.	6 March 2021	Elevations 4 - South Elevation	Antonio Caminiti	8 March 2021
2101.07.1	6 March 2021	Sections - Section 01	Antonio Caminiti	8 March 2021
2101.07.2	6 March 2021	Sections - Section 02, Section 3	Antonio Caminiti	8 March 2021
2101.07.3	6 March 2021	Sections - Section 04	Antonio Caminiti	8 March 2021
2101.08.1	6 April 2022	Materials	Antonio Caminiti	6 April 2022
2101.09.1	6 March 2021	Lower Ground/Ground Landscape	Antonio Caminiti	8 March 2021
2101.10.1	6 March 2021	BASIX notes	Antonio Caminiti	8 March 2021

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

2. To amended Condition C15 of the consent so as to read as follows:

BASIX Certificate

C15 Under clause 97A(3) of the *Environmental Planning and Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A442548 (dated 14 December 2021) for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

The proposal involves the modification of a consent to permit the change in colouration of the approved metal cladding from grey to dark grey (Dulux Monument).

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including the NSLEP 2013) have described and detailed throughout this report. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Reasons for Approval:

Accordingly, it is recommended that the following conditions are amended in the consent:

- Amend Condition A1 to include amended Materials drawing reflecting the changed cladding coloration; and
- Amend Condition C15 to include the amended BASIX Certificate.

How community views were taken into account:

In accordance with the provisions of Section 3.4.1 of Council's Community Engagement Protocol, the subject application was not required to be notified. Therefore, no submissions have been received.

The conditions attached to the original consent for Development Application No. **58/21** by endorsed date of **8 March 2021** still apply.

ADVISINGS

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

3 June 2022

DATE

Signature on behalf of consent authority
MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER (PLANNING)