

Original signed by Robyn Pearson on 20/06/2022

Nick Hibberd
PO Box 46
CAMMERAY NSW 2062

D422/18
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 422/18/3 – APPROVAL**

Development Consent Number: 422/18/3

Land to which this applies: 106 Bank Street, North Sydney
Lot No.: 1, DP: 730270

Applicant: Nick Hibberd

Proposal: Modification of consent including internal reconfiguration and external modifications to windows and other 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. **422/18** and registered in Council's records as Application No. **422/18/3** relating to the land described as **106 Bank Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 9 April 2019, has been determined in the following manner:

1. Condition A5 is amended as follows:

Development in Accordance with Plans (S4.55 Amendments)

A5. The development must be 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 the following drawings for DA 422/18/2:

Drawing No.	Issue/ Rev	Title	Drawn by	Dated
10	J	Proposed basement, ground plans	Nick Hibberd Architect	07/09/2020
11	K	Proposed upper and roof plans	Nick Hibberd Architect	07/09/2020
20	K	Section sheet 1	Nick Hibberd Architect	07/09/2020
21	L	Sections sheet 2	Nick Hibberd Architect	07/09/2020
23	L	Section sheet 3	Nick Hibberd Architect	07/09/2020

Except as modified as such on the following drawings for DA 422/18/3:

Drawing No.	Issue/Rev	Title	Drawn by	Dated
10	M	Proposed basement ground plans	Nick Hibberd Architect	10/05/2022
11	N	Proposed upper and roof plans	Nick Hibberd Architect	03/03/2022
20	N	Sections sheet 1	Nick Hibberd Architect	03/03/2022
21	O	Sections sheet 2	Nick Hibberd Architect	03/03/2022
22	L	Finishes elevation	Nick Hibberd Architect	03/03/2022

except as amended by the following conditions and this consent.

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

2. Condition C14 is amended as follows:

BASIX Certificate

C14. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A332933_03, dated 10 May 2022, 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)

Reason for approval:

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposed development remains substantially the same as what was approved by DA 422/18. The proposed modifications will not alter the use of the development as originally approved, are sympathetic to the design of the dwelling as originally approved, and the amenity impacts remain acceptable, particularly in regard to privacy, views and solar access. The proposed modifications would not significantly change the level of compliance with the relevant development standards and controls as contained in NSLEP 2013 and NSDCP 2013.

The proposed works will provide residential amenity without negatively impacting the neighbourhood character, and the Union, Bank and Thomas Streets Conservation Area. The proposal also remains consistent with the objectives of the R2 Low Density Residential Zone and the original reasons for granting consent.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be **approved**.

How community views were taken into account:

The subject application was notified to adjoining properties and the Union and Edward precinct committees seeking comment. One submission was received raising privacy concerns on a single window. Nevertheless, it is considered that the proposed modifications would not substantially alter the impacts of what has already been approved under the original consent and would not cause any unreasonable impacts to the streetscape and/or adjoining properties.

The conditions attached to the original consent for Development Application No. 422/18 by endorsed date of 9 April 2019 still apply.

ADVISINGS

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

20/06/2022

DATE

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