



Costi Architects
C/- Andrew Costi
119 Willoughby Road
CROWS NEST NSW 2065

D447/18
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 447/18/2 - APPROVAL**

Development Consent Number: 447/18

Land to which this applies: Suite 4, 134 Military Road, Neutral Bay
Lot No.: 4 DP: 20545

Applicant: Costi Architects

Date of Determination: 18 August 2022

Proposal: Section 4.55(1A) modification relating to a change of use from a commercial premises within an existing mix used development to a shop top housing unit.

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. **447/18** and registered in Council's records as Application No. **447/18/2** relating to the land described as **Suite 4, 134 Military Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 June 2019, has been determined in the following manner:

A. *Impose Condition A4 Development in Accordance with Plans*

Development in Accordance with Plans (s4.55 Amendments)

A4 The development being 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:

Plan No.	Issue	Title	Dated	Drawn by	Received
A1.01	B1	Site Plan	18/07/2022	Costi Architects	19/07/2022
A1.03	B1	Floor Plan	18/07/2022		19/07/2022
A3.01	B1	Elevations	18/07/2022		19/07/2022
A3.03	B1	Sections	18/07/2022		19/07/2022
A4.01	B1	Finishes Schedule	18/07/2022		19/07/2022

A4.03	B1	Door and Window Schedule	18/07/2022		19/07/2022
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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)

B. Amended Condition C15 BASIX Certificate

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. A453671_02, dated 1 April 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)

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 development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

Reasons for Approval:

The proposed modifications are considered substantially the same development and of minimal environmental impact. The proposed modifications to the internal layout of the dwelling would not give rise to any further impacts. The proposed extension of the first-floor level by 500mm to the rear (south) would have a negligible impact on the amenity of the adjoining property given the extent of existing overshadowing caused by the subject building and adjoining mixed use developments.

The proposed modification is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The application was notified in accordance with Council's Community Engagement Protocol from 6 May 2022 until 20 May 2022. No submissions were received at Council. Nevertheless, the potential impact of the proposed modification on the amenity of the surrounding properties has been considered.

The conditions attached to the original consent for Development Application No. **447/18** by endorsed date of 7 June 2019 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 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

25 August 2022

DATE



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