

Original signed by **Robyn Pearson** on **19 August 2022**

Grosvenor Development Co Pty Ltd
5/95 Pitt Street
SYDNEY NSW 2000

D237/20
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 237/20/5 - APPROVAL**

Development Application Number: **237/20/5**

Land to which this applies:

30-34 Grosvenor Street, Neutral Bay
Lot No.: 50, DP: 1278230

Applicant:

Grosvenor Development Co Pty Ltd

Proposal:

Section 4.55(1A) modifications to DA237/20 for changes to
Conditions A9, A10 and C45

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. **237/20** and registered in Council's records as Application No. **237/20/5** relating to the land described as **30-34 Grosvenor Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 March 2021, has been determined in the following manner:

1. To modify Conditions A9, A10 And C45 as follows:

Modifications to Level 3 Layout

A9. The design and layout of Level 3 of the subject building are to be modified, and as marked in red on the approved plans, as follows:

- The eastern edge of the proposed roof extension shall be amended to provide a 15.5m setback from the eastern (Young Street) property boundary;
- The design of the private outdoor terrace on the eastern side of apartment 301 shall be amended to provide a private outdoor space measuring 5.6m x 5.6m (maximum) off the eastern glass line of apartment 301;
- The design of the communal roof terrace shall be amended to provide a L-shaped terrace with frontages to the northern, eastern and southern edges of the building

The modified design for Level 3 must be submitted for the written approval of Council's Manager Development Services.

Council's written approval, plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate involving the internal fitout works for Level 3.

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 a generous rooftop terrace with high amenity and value is provided to all the residents while a smaller outdoor space, ample for private use of the level 3 apartment)

External Screens for Apartments 002 and 301

A10. External screens shall be provided for the northern living room windows for Apartment No. 002 on the ground floor and Apartment 301 on level 3 to provide screening for unprotected glazing on the northern elevation of the subject building.

The design and locations of the screens shall match those on same windows on the northern elevation of levels 1 and 2.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate involving detailing works to the façade and exterior of the building. 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 provide external screens on north facing unprotected glazing on the Ground Level and Level 3)

Solar Panels

C45. The solar panels must be mounted flat on the roof plane to minimise the visual bulk and impacts for the adjoining properties.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate involving detailing works to the façade and exterior of the building.

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 minimise visual impacts)

The proposal satisfies the provisions of Section 4.55(1A) in that the development would be substantially the same as what was approved under DA 237/20 as the proposed modifications will not alter the use and the general form of the development as originally approved.

The proposed modifications would result in a development which is substantially the same development as originally approved as the proposal only involves modifications to the wording of the nominated conditions to facilitate staging of construction.

Reason for approval:

The proposed modifications would not change the level of compliance with the relevant LEP and DCP provisions and requirements.

The proposed modifications would not change the development outcome in terms of height, bulk and scale, envelope and appearance of the approved apartment building.

The proposed changes to the wording of the nominated conditions would have no material amenity impacts for the adjoining properties.

How community views were taken into account:

Notification of the subject application was waived in accordance with Section 3.4.2 of Council's Community Engagement Protocol because the proposal would not result in physical changes to the approved development as seen from the adjoining properties and there would have no additional amenity impacts for these properties.

The conditions attached to the original consent for Development Application No. 237/20 by endorsed date of 3 March 2021 still apply.

ADVISINGS

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

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER ASSESSMENTS