



Matthew Campbell  
Helm No. 16 Pty Ltd  
PO Box 99  
NORTHBRIDGE NSW 1560

D252/19  
RB (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 252/19/4 - APPROVAL**

**Development Consent Number:** 252/19/4

**Land to which this applies:** 96-100 Spofforth Street, Cremorne  
Lot No.: 1, DP: 957949

**Applicant:** Helm No. 16 Pty Ltd

**Proposal:** Section 4.55(2) modification to DA 252/19 which permitted a residential flat building containing twelve apartments, 'minor modification to roof plant, external screens, supply air intake, carparking and landscaping'

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. **252/19** and registered in Council's records as Application No. **252/19/4** relating to the land described as **96-100 Spofforth Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **6 November 2019**, has been determined in the following manner:

- To amend condition A1 of the consent as follows to identify the proposed changes to the previously approved plans:***

**Development in Accordance with the Plans/Documentation**

- A1 The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following condition of this consent.

**ORIGINAL PLANS REF:**

Drawing No.	Issue/Revision	Title	Drawn by	Dated
DA.02	B	Site Analysis Plan	Brick Architects	14/09/2019
DA.10	B	Ground Level	Brick Architects	14/09/2019
DA.11	B	Level 1	Brick Architects	14/09/2019

DA.12	B	Level 2	Brick Architects	14/09/2019
DA.13	B	Level 3	Brick Architects	14/09/2019
DA.14	A	Roof Level	Brick Architects	8/08/2019
DA.15	A	Basement Level 1	Brick Architects	8/08/2019
DA.16	A	Basement Level 2	Brick Architects	8/08/2019
DA.17	A	Basement Level 3	Brick Architects	8/08/2019
DA.18	B	East Elevation	Brick Architects	14/09/2019
DA.19	B	West Elevation	Brick Architects	14/09/2019
DA.20	B	South Elevation	Brick Architects	14/09/2019
DA.21	B	North Elevation	Brick Architects	14/09/2019
DA.22	A	Section AA	Brick Architects	8/08/2019
DA.23	A	Section BB	Brick Architects	8/08/2019
DA.31	B	Materials and Finishes	Brick Architects	14/09/2019
DA.39	A	Driveway Entry Details	Brick Architects	8/08/2019
425_DA_01	B	Cover Page	Myles Baldwin Design	11/10/2019
425_DA_10	B	Ground Floor	Myles Baldwin Design	11/10/2019
425_DA_11	B	Level 1-3	Myles Baldwin Design	11/10/2019
425_DA_30	B	Specification Notes	Myles Baldwin Design	11/10/2019

**AS AMENDED BY THE FOLLOWING PLANS REF:**

<b>Drawing No.</b>	<b>Issue/ Revision</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>
DA.02	C	Site Analysis Plan	Brick Architects	14/04/2022
DA.10	C	Ground Level	Brick Architects	11/02/2022
DA.11	C	Level 1	Brick Architects	11/02/2022
DA.12	C	Level 2	Brick Architects	11/02/2022
DA.13	C	Level 3	Brick Architects	11/02/2022
DA.14	B	Roof Level	Brick Architects	11/02/2022
DA.15	B	Basement Level 1	Brick Architects	11/02/2022
DA.16	B	Basement Level 2	Brick Architects	11/02/2022
DA.17	B	Basement Level 3	Brick Architects	11/02/2022
DA.18	C	East Elevation	Brick Architects	11/02/2022
DA.19	C	West Elevation	Brick Architects	11/02/2022
DA.20	C	South Elevation	Brick Architects	11/02/2022
DA.21	C	North Elevation	Brick Architects	11/02/2022
DA.29	B	Apartment Storage 1	Brick Architects	11/08/2022
DA.30	B	Apartment Storage 2	Brick Architects	11/08/2022
425_S4.55_01	A	Cover Page	Myles Baldwin Design	13/04/2022
425_S4.55_02	A	Plant and Finishes Schedule	Myles Baldwin Design	13/04/2022
425_S4.55_10	A	Landscape Plan - CS1 Ground Floor	Myles Baldwin Design	13/04/2022
425_S4.55_11	A	Landscape Plan - CS2 Ground Floor	Myles Baldwin Design	13/04/2022
425_S4.55_12	A	Level 1-3 (Typical Planters)	Myles Baldwin Design	13/04/2022
425_S4.55_13	A	Irrigation Plan	Myles Baldwin Design	13/04/2022
425_S4.55_40	A	Typical Details	Myles Baldwin Design	13/04/2022
425_S4.55_50	A	Specification Notes	Myles Baldwin Design	13/04/2022

2. To amend the previously approved BASIX certificate to reflect the changes to the plans as follows:

**BASIX Certificate**

C37. 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. 1032528M\_04, dated 9 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)

---

The proposed modifications are considered to be generally consistent with the originally approved development application and section 4.55 of the *Environmental Planning and Assessment Act 1979*. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area.

There is minimal alteration to the physical development, and the development is substantially the same. There is virtually no change to the building's form, bulk and scale, and no change to the building's height. A minor change to the rear building façade due to a small column being moved from its internal location to the rear façade has negligible impact. The additional plant and equipment on the roof including additional acoustic screen and relocation of AC units which have acoustic screens, do not have any acoustic or visual impact or any view loss impacts. The plant and equipment are hidden by screens and will not be perceptible within the public domain, and do not alter the streetscape. The changes to screens and blinds will not have any visual privacy impacts and will be beneficial in increasing internal solar access.

**Reasons for Approval:**

The modifications are considered to be generally consistent with the desired character of the locality as set out in the DCP Character Statement for the Murdoch Neighbourhood within the North Cremorne Planning Area. Given the minimal changes to the roof top plant and equipment and minor amendments to internal living layouts and landscaping, and no alteration to number of apartments, number of car parking spaces and vehicular access, it is considered that there would be no undue impacts on the residential amenity of any adjoining properties, or on the character of the locality. There would be no undesirable impacts in terms of overshadowing, visual and/or acoustic privacy nor any view loss for adjoining properties arising from the proposed changes.

---

The proposed modification would not change the level of compliance with the relevant development standards and controls as contained in SEPP 65 and the ADG, North Sydney LEP 2013 and North Sydney DCP 2013 or any other relevant planning policy. The proposed amendments would cause no disadvantage to any person who owns adjoining or neighbouring land. The proposed amendments are of a minor nature and will have little to no environmental impact. The proposed modifications are consistent with the reasons for the grant of development consent to the originally approved development and are considered to be acceptable.

The proposed modification of Condition G16 which sought the reduction of required street tree plantings from three to two, is not approved on the basis that the reduction in street tree replenishment would unreasonably reduce the landscape presentation and canopy replenishment associated with the approved development and would adversely impact the streetscape given the length of the street boundary to Spofforth Street.

Having regard to the provisions of section 4.55 and 4.15(1) of *the Environmental Planning and Assessment Act 1979*, the proposed development as modified is substantially the same development as originally consented to. The application is, therefore, recommended for **approval**, subject to conditions.

---

**How community views were taken into account:**

The proposal is considered to be in the public interest for the reasons stated throughout this report.

---

The conditions attached to the original consent for Development Application No. **252/19** by endorsed date of **6 November 2019** still apply.

**ADVISINGS**

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

**16 September 2022**

DATE

  
Signature on behalf of consent authority  
DAVID HOY  
TEAM LEADER (ASSESSMENTS)