



Platino Properties Pty Ltd
Suite 11, 20 Young Street
NEUTRAL BAY NSW 2089

D269/21
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 269/21/2 - APPROVAL**

Development Consent Number: 269/21/2

Land to which this applies: 372 Military Road, Cremorne
Lot No.: 100, DP: 615583

Applicant: Platino Properties Pty Ltd

Proposal: Section 4.55(2) application seeking modifications to Development Consent (D269/21) including various amendments to the deferred commencement approval for a five (5) storey mixed use development.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 7 September 2022.

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. **269/21** and registered in Council's records as Application No. **269/21/2** relating to the land described as **372 Military Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 April 2022, has been determined in the following manner: -

- To modify the development consent (D269/21) and modify conditions AA1, C40, C41 and C45 to read as follows:***

Deferred Commencement Matters

- AA1. Amended plans, addressing the following matters, must be submitted for the written approval of Council's Manager Development Services:

Design Modifications

- (a) The design of proposed building be modified to provide an 8m setback between the southern building line on Level 4 of the building and the southern (Military Road) property boundary to minimise the visibility of the top level of the proposed building and to provide a more respectful transition of built form and building height for the adjoining heritage listed Orpheum Theatre to the east of the subject site;
- (b) The modified fourth floor (Level 4) southern building line shall match the southern wall of the proposed lift shaft/overrun. The internal layout of the fourth floor shall be modified to provide a three bedroom apartment similar in layout to the other three bedroom apartments proposed on the first and second floor; and
- (c) The internal layout of the amalgamated four (4) bedroom apartment on Level 3 shall be accommodated within the Level 3 building envelope of the original DA scheme as shown on Drawing No. DA101 Issue B, dated 18.11.21 and prepared by PA Studio.

(Reason: To ensure that the development complements the locality in terms of streetscape and heritage significance of the adjoining Orpheum Theatre.)

Section 7.11 Contributions

C40. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Local Infrastructure Contribution Plan 2020 for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

Contribution Categories/Facilities:	Contribution(\$)
Open space and recreation facilities:	\$35,882.05
Public domain:	\$14,715.76
Active transport:	\$839.99
Community facilities:	\$7,207.06
Plan administration and management:	\$875.26
Total:	\$59,520.12

* Contribution required for the current proposal offset by credit from the existing commercial development

The contribution MUST BE paid prior issue of any Construction Certificate.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Local Infrastructure Contribution Plan 2020 can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

Security Deposits/Guarantee Schedule

C41. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Footpath Damage Bond	\$30,000.00
Engineering Construction Bond	\$36,000.00
TOTAL BONDS	\$66,000.00

Note: The following fees applicable

Fees	
S7.11 Contribution	\$59,520.12
TOTAL FEES	\$59,520.12

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date. (Reason: Compliance with the development consent)

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TfNSW

C45 The following TfNSW requirements must be complied with prior to the issue of a Construction Certificate for construction:

- (a) All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Military Road boundary.
- (b) Detailed design plans and hydraulic calculations for any changes to the stormwater drainage system that are likely to have an impact upon Military Road are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

- (c) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.
- (d) The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (e) The developer shall be responsible for all public utility adjustment/relocation works, etc necessitated by the above/approved work and as required by the various public utility authorities and/or their agents.
- (f) The proposed development, noting its use, should be designed, as per the requirements of clause 101 (2)(c) of State Environmental Planning Policy (Infrastructure) 2007 such that it includes measures to ameliorate potential traffic noise or vehicle emissions noise within the site of the development arising from Military Road. These measures shall be certified by an appropriately qualified noise and air quality expert and noted on the plans prior to issue of a construction certificate.
- (g) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2018 for heavy vehicle usage.
- (h) The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (i) All demolition and construction vehicles are to access site via Parraween Street. A construction zone will not be permitted on Military Road.
- (j) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Military Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

(Reason: Compliance with TfNSW Requirements)

2. To insert a new condition A5 to read as follows:

Terms of Consent (D269/21/2)

A5. Approval is granted for the following modifications only:

- (a) Amalgamation of Units 301 (3 Bedroom) and 302 (Studio) on Level 3 to create a four (4) bedroom apartment resulting in a reduction in the overall number of apartments within the development from seven (7) to six (6); and

- (b) Amendments to consent condition C45 (TfNSW Requirements) to allow the requirements to be satisfied prior to the issue of the Construction Certificate for the construction works.

No approval is given or implied in this consent for any other works, both internal and external, particularly the proposed modifications to the southern (Military Road) façade on Levels 3 and 4, within the subject property unless specified in the consent.

(Reason: To ensure the terms of the consent are clear.)

Reason for approval:

The Panel agrees with the Applicant that Condition AA1(d) of the deferred commencement should be deleted.

The Panel considers that part of the modification recommended for approval is substantially the same development as the original consent, it has been notified and assessed having regard to the relevant provisions of S4.15 of the Environmental Planning and Assessment Act, and the Panel has taken into consideration submissions received and the reasons in the original approval of the application.

How community views were taken into account:

The application was notified to adjoining properties and the Brightmore and Harrison Precincts under section 3.6 of the North Sydney Community Engagement Protocol inviting comment on the proposal. The notification of the application has attracted no submissions

The conditions attached to the original consent for Development Application No. 269/21 by endorsed date of 6 April 2022 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 & 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

15 September 2022

DATE



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