



Nicholas Coleman and  
Malcom Coleman  
16 The Avenue  
SYDNEY NSW 2060

D301/20  
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 301/20/4 - APPROVAL**

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**Development Consent Number:** 301/20

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**Land to which this applies:** 16 The Avenue, North Sydney  
Lot No.: 1, DP: 937768

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**Applicant:** Nicholas Coleman and Malcom Coleman

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**Date of Determination** 1 September 2022

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**Proposal:** Section 4.55(1A) modification relating to alterations and additions, including an attic conversion, within an existing dwelling house and construction of a two-car garage with first floor studio above

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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. **301/20** and registered in Council's records as Application No. **301/20/4** relating to the land described as **16 The Avenue, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **16 April 2021**, has been determined in the following manner:

**A. Impose condition A6 as follows.**

**Development in accordance with s4.55 plans and documentation**

A6. 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	Prepared	Received
S4.55 101	-	Proposed Site Plan	31/08/2022	COSO Architecture	31/08/2022
S4.55 102	-	Proposed First Floor Plan	31/08/2022		31/08/2022
S4.55 103	-	Proposed Roof Plan	31/08/2022		31/08/2022
S4.55 104	-	Proposed Section A	31/08/2022		31/08/2022

S4.55 106	-	Proposed Southern Elevation	31/08/2022		31/08/2022
S4.55 107	-	Proposed Northern Elevation	31/08/2022		31/08/2022

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)

**B. *Modify 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. A462727, dated 9 June 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)

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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 reconfiguration of the approved first floor level and installation of two additional skylights would not give rise to any additional amenity impacts and would not adversely impact the heritage significance of the subject dwelling or the conservation area.

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

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

The application was notified in accordance with Council's Community Engagement Protocol from 8 July 2022 until 22 July 2022. No submissions were received at Council. Nevertheless, the potential impacts of the proposed modifications have been considered.

16 April 2021 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**

2 September 2022

DATE



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