



Mr Lin Chern Tan  
C/- CplusC Architectural Workshop  
62 Ivy Street  
DARLINGTON NSW 2008

D130/20/3  
RW (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 130/20/3 - APPROVAL**

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**Development Consent Number:** 130/20

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**Land to which this applies:** 46 Edward Street, North Sydney  
Lot No.: 18, SEC: 1, DP: 7544

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**Applicant:** Mr Lin Chern Tan

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**Proposal:** To modify a consent DA130/20 to create a void in the northern elevation to insert a three-bay casement window in the existing detached dwelling

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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. **130/20** and registered in Council's records as Application No. **130/20/3** relating to the land described as **46 Edward Street, North Sydney**.

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

**1. To amend Condition A1 as follows:**

**Development in Accordance with Plans (s4.55 Amendments)**

A1. The development being carried out in accordance with plans identified in Condition A1 of the consent:

Plan No.	Rev	Description	Prepared by	Dated
DA001	D	Site Plan	CplusC Architectural Workshop	22/06/2020
DA002	D	Proposed Site Plan	CplusC Architectural Workshop	22/06/2020
DA003	E	Existing Ground Floor Plan	CplusC Architectural Workshop	2/09/2020
DA004	E	Proposed Ground Floor Plan	CplusC Architectural Workshop	2/09/2020
DA005	D	Existing Lower Ground Floor	CplusC Architectural Workshop	2/09/2020
DA006	E	Proposed lower Ground Floor Plan	CplusC Architectural Workshop	2/09/2020
DA007	E	Proposed Roof Plan	CplusC Architectural Workshop	2/09/2020
DA008	E	Elevation East/Street	CplusC Architectural Workshop	2/09/2020

DA009	D	Elevation North	CplusC Architectural Workshop	22/06/2020
DA010	D	Elevation West	CplusC Architectural Workshop	22/06/2020
DA011	E	Elevation South	CplusC Architectural Workshop	2/09/2020
DA012	D	Section A	CplusC Architectural Workshop	22/06/2020
DA013	E	Section B	CplusC Architectural Workshop	2/09/2020
DA023	D	Erosion Control and Waste Management	CplusC Architectural Workshop	22/06/2020
DA024	E	Stormwater Management Plan	CplusC Architectural Workshop	18/06/2021
DA025	D	External F2inishes and Materials	CplusC Architectural Workshop	22/06/2020

As amended by the following plans:

<b>Plan No.</b>	<b>Rev</b>	<b>Description</b>	<b>Prepared by</b>	<b>Dated</b>
S4.55 2	B	Proposed Ground Floor Plan	CplusC Architectural Workshop	28/10/2022
S4.55 4	B	Proposed Elevation - North	CplusC Architectural Workshop	28/10/2022

**2. To add Conditions C31 and G9 as follow:**

**Northern Elevation Window Installation**

C31. The proposed window shall be installed with fixtures to ensure the windows cannot be opened beyond 45 degrees and with glazing altered to be translucent to allow light into Bedroom 1 but prevent direct overlooking to and from No. 48 Edward Street. The certifier is to be satisfied that the window will be installed in accordance with the requirements of this condition prior to the issue of any relevant Construction Certificate and prior to the issue of the final Occupation Certificate.

(Reason: To protect the visual privacy and amenity of adjoining dwellings)

**Verification Photo (Northern Elevation Inter-War Window)**

G9. Prior to the issue of any Occupation Certificate, a verification photo from a qualified designer or architect (preferably the original designer), must be submitted to Council and the Certifying Authority certifying that the external finishes, materials and design of the northern elevation window are in accordance with the approved photos supplied by the applicant identified in this consent and included at the end of this consent. The glass of the proposed window must be maintained as translucent with sufficient window fixings in place to ensure restricted opening, in accordance with Condition No. C31.

(Reason: To protect the heritage significance of the contributory item in the conservation area.  
To protect the visual privacy of adjoining dwellings)

**Reasons for Approval:**

The proposed modification is considered to be generally consistent with the originally approved development application and s.4.55 of the EP&A Act 1979 (as amended). Furthermore, the modification does not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

The proposed modification will improve residential amenity by introducing solar access into Bedroom 1 and presents merit to the application.

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**.

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

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

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The conditions attached to the original consent for Development Application No. **130/20** by endorsed date of **3 August 2021** still apply.

**ADVISINGS**

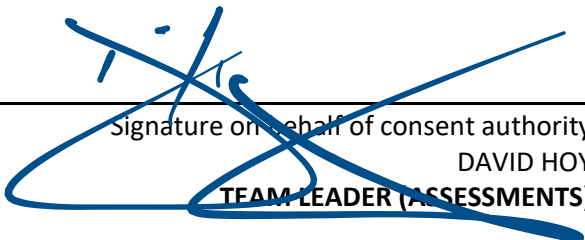
- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Rachel Wu**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as 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**

**4 November 2022**

DATE

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