



SP 15153
C/- Paul Miller - Real Property Services
PO Box 325
NEUTRAL BAY NSW 2089

D128/21
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 128/21/2 - APPROVAL**

Development Consent Number: 128/21/2

Land to which this applies: 8 Wulworra Avenue, Cremorne Point
SP: 15153

Applicant: SP 15153

Proposal: Section 4.55(2) application (D128/21) seeking modifications to an approved upgrade of the north-eastern façade of an existing apartment building.

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. **128/21** and registered in Council's records as Application No. **128/21/2** relating to the land described as **8 Wulworra Avenue, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 17 November 2021, has been determined in the following manner:

1. To modify the development consent (D128/21) and modify conditions A1 and C16 to read as follows:

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the following drawings:

Plan No.	Issue	Date	Description	Prepared by
DA01	5	14/7/21	Site Plan	Welsh + Major
DA03	6	4/11/21	Proposed East Elevation	Welsh + Major
DA04	5	14/7/21	Proposed North Elevation	Welsh + Major
DA05	5	14/7/21	Proposed South + West Elevation	Welsh + Major
DA06	5	14/7/21	Proposed Section	Welsh + Major
DA08	1	14/7/21	Materials Palette	Welsh + Major
DASK1	1	July 2021	Corner Window Study	Welsh + Major

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D128/21/2:

Plan No.	Issue	Date	Description	Prepared by
DA01	8	25/2/22	Site Plan	Welsh + Major
DA02	6	8/8/22	Proposed Ground, 1 st , 2 nd + 3 rd Floor Plans	Welsh + Major
DA03	11	8/8/22	Proposed East Elevation	Welsh + Major
DA04	9	14/6/22	Proposed North Elevation	Welsh + Major
DA05	9	14/6/22	Proposed South + West Elevation	Welsh + Major
DA06	9	14/6/22	Proposed Section	Welsh + Major
DA08	6	15/6/22	Materials Palette	Welsh + Major

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

BASIX Certificate

C16. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate Nos. A404448_03, A404449_03, A404450_03 and A404451_03 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).

2. To insert new condition A4 and C19 as follows:

Terms of Consent (D128/21/2)

A4. Approval is granted for the following works as shown on the drawings for D128/21/2 as referenced in Condition A1 of this consent:

- a) Installation of timber-framed windows to W01, W04, W05 and W10;
- b) The original single tone paint scheme is to be maintained on the northern, southern and eastern elevations of the approved façade works;
- c) Modifications to the cladding patterns in accordance with Condition C19; and
- d) Modifications to window layout as indicated on the approved plans.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

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

Metal Wall Cladding

C19. Prior to the issue of any Construction Certificate, the applicant must submit the detailed design of the metal wall cladding for the written approval of Council's Team Leader Assessment in consultation with Council's Conservation Planner. The detailed design of the wall cladding must be consistent with the design as shown on drawing DA12 Revision 6, dated 15 June 2022, drawn by Welsh & Major and received 12 September 2022 that will:

- a) Use zinc banding in a medium neutral metal colour and with a suitable muted colour;
- b) The cladding shall flare away from the façade at the floor level; and
- c) Use an embossed pressed metal detail that takes its inspiration from the original interior balustrade detail.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To retain the character of the conservation area)

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979.

The proposed modifications would result in a development which is substantially the same development as originally approved as the proposed modifications would not change the height, bulk and scale, envelope and the overall appearance of the existing apartment building.

Reasons for Approval:

The modified development does not alter the use of the existing apartment building and continue to benefit from existing use rights.

The proposed modifications would have no material impacts on the amenity for the subject site and the adjoining properties because the proposal primarily relates to design changes with no significant changes to the size and locations of the approved openings.

The proposed modifications are acceptable in heritage terms subject to the imposition of a new condition relating to the wall cladding.

How community views were taken into account:

The subject application was notified to adjoining properties and the Cremorne Point Precinct inviting comment between 30 September and 14 October 2022. The notification of the application has attracted no submissions.

The conditions attached to the original consent for Development Application No. 128/21 by endorsed date of 17 November 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

2 November 2022

DATE



Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER ASSESSMENTS