



Francis Henry-May
43 Bungalow Avenue
BALGOWLAH HEIGHTS NSW 2093

D277/21
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 277/21/2 - APPROVAL**

Development Consent Number: 277/21/2

Land to which this applies: Suite 3, 102 Alfred Street South, Milsons Point
Lot No.: 3, SP: 32515

Applicant: Francis Henry-May

Proposal: Modification of consent to allow an internal reconfiguration of the approved development and deletion of three (3) windows.

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. **277/21** and registered in Council's records as Application No. **277/21/2** relating to the land described as **Suite 3, 102 Alfred Street South, Milsons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 March 2022, has been determined in the following manner:

1. To modify Conditions A1, C12 and C13 of the consent to read as follows:

Conditions that Identify Approved Plans

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 conditions of this consent.

| Plan No. | Issue | Title | Drawn by | Date |
|----------|-------|------------------------------------|--------------------|-------------|
| DA02 | B | Site Plan | Henry May Projects | 10 Aug 2022 |
| DA04 | B | Proposed Ground Floor and L1 Plans | Henry May Projects | 10 Aug 2022 |
| DA06 | B | Elevations | Henry May Projects | 10 Aug 2022 |
| DA07 | B | Window and Door Schedule | Henry May Projects | 10 Aug 2022 |

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

BASIX Certificate

C12. 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. A428322_02 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)

Works wholly contained within Lot

C13. All works approved under this consent must occur wholly within premises of Suite 3, No. 102 Alfred Street South, Milsons Point and identified as land comprising Lot 3 in SP 32515.

All works must not alter/impact nor intrude upon the common property of the associated building (contained in SP 32515).

(Reason: To ensure the proposed development will does not impact the common property of the associated building)

Reasons for Approval:

The proposal (as modified) involves minor changes to the approved layout and western elevation of the approved residential unit. The proposed modification will result in development that is substantially and materially the same as approved by DA71/20 (as demonstrated in the above considerations under Clause 4.55 of the Environmental Planning and Assessment Act 1979).

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including the NSLEP 2013) have been described and detailed throughout this report. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.55 of the Environmental Planning and Assessment Act 1979.

Accordingly, it is recommended that the following conditions are amended in the consent:

- Modify Condition A1 to include amended plans reflecting the proposed changes.
 - Modify Condition C12 to reflect revised BASIX certificate.
 - Add Condition C13 to ensure all works are undertaken within Lot 3 in SP 32515 and shall not alter and intrude upon the common property.
-

How community views were taken into account:

The application was notified to adjoining properties in accordance with Council's Community Consultation Plan from 16 to 30 September 2022. Two (2) submissions were received during this period.

The conditions attached to the original consent for Development Application No. 277/21 by endorsed date of 2 March 2022 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **the undersigned**. 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
MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER