



Platino Properties Pty Ltd
Se 11, Level 2, 20 Young Street
NEUTRAL BAY NSW 2089

D269/21
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 269/21/4 – APPROVAL**

Development Consent Number: 269/21/4

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 design changes to an approved five (5) storey mixed use development.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 1 March 2023.

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. 269/21/4 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 C40, C41, C42 and C50 to read as follows:***

Section 7.11 Contributions

- C40. 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 below, must be paid to Council.

Contribution Categories/Facilities:	Contribution(\$)
Open space and recreation facilities:	\$44,366.81
Public domain:	\$18,033.80
Active transport:	\$1,029.39
Community facilities:	\$8,911.25
Plan administration and management:	\$1,079.62
Total:	\$73,420.87

- * 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	\$73,420.87
TOTAL FEES	\$73,420.87

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)

BASIX Commitments

C42. 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 No. 1224852M_09 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.

Note: A revised BASIX Certificate may be required to reflect the modified design as required by Condition C51 of this consent.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

External Colours and Materials – Levels 3 and 4, Southern (Military Road) Elevation

C50. The colours and materials on the southern (Military Road) elevation for Levels 3 and 4 shall be amended to a mid-range tone or a pale colour similar to the attached property located at 368 Military Road in order to differentiate the subject building from the rich red and yellow tones of the adjoining heritage item (The Orpheum Theatre).

Amended plans showing the revised architectural treatments and colours of this level are to be submitted for the written approval of Council's Manager, Development Services prior to the issue of any Construction Certificate.

Council's approval letter, plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: Heritage conservation)

2. To insert a new conditions A6 and C51 to read as follows:

Terms of Consent (D269/21/4)

A6. Approval is granted for the following modifications only:

- (a) Modifications to the approved four (4) bedroom apartment on Level 3 to provide 1 x 3 Bedroom apartment (Unit 301) and 1 x studio apartment (Unit 302).
- (b) The overall number of apartments within the development increases from six (6) to seven (7).

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 Level 4, within the subject property unless specified in the consent.

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

Design of Level 4

C51. The design of Level 4 must be consistent with the following:

- (a) Bedroom 3 of the proposed apartment on Level 4 (unit 401) as shown on the drawings submitted accompanying S4.55 application (D269/21/4) must be deleted, the associated eastern and southern walls being setback accordingly;
- (b) The southern building line of Level 4 must provide a minimum 8m setback from the southern (Military Road) property boundary: and
- (c) The design of the southern elevation and southern terrace for the apartment on Level 4 and the internal layout of this apartment the internal layout and the southern terrace on Level 4 shall be consistent with those as shown on the approved DA drawing (Drawing No. DA102 Issue F dated 29 November 2022 and DA301 Issue E dated 21 November 2022, all prepared by PA Studio).

Drawings demonstrating compliance with the above requirements must be submitted for the written approval of Council's Manager Development Services.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate. The Certifying Authority must ensure that the building plans and specification submitted fully satisfy the requirements of this condition.

(Reason: To ensure consistency with the original deferred commencement consent and to maintain the significance of the adjoining heritage listed building.)

Reason for approval:

The application for modification is approved in part only to ensure consistency with the original deferred commencement consent and to respect and maintain the significance of the adjoining heritage listed building.

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 two submissions. The issues raised in the submissions have been addressed in the assessment report.

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

7 March 2023

DATE



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