



Nathalie Scipioni Architects
Suite 4/306-310 New South Head Road
DOUBLE BAY NSW 2028

D145/21
TH2 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 145/21/3 - APPROVAL**

Development Consent Number:	145/21
Land to which this applies:	Unit 5, 8 Westleigh Street, Neutral Bay Lot No.: 5 SP: 11429
Applicant:	NS Studio
Proposal:	Section 4.55(1A) application to modify a consent for alterations and additions to a rooftop level unit

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. **145/21** and registered in Council's records as Application No. **145/21/3** relating to the land described as **Unit 5, 8 Westleigh Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **9 July 2021**, has been determined in the following manner:

A. Add Condition A5 as follows:

Development in Accordance with Plans/Documentation (s4.55 Amendments)

A5. The development being carried out in accordance with plans identified in Condition A1 of the Consent and A5 of the modification to Consent endorsed with Council's approval stamp, except as modified by the modifications shown on:

Plan No.	Rev	Title	Drawn by	Received
S 02	A	Site Plan	Nathalie Scipioni Architects	19/06/2023
S 03	A	Proposed Floor Plan	Nathalie Scipioni Architects	19/06/2023
S 04	A	South and Internal North Elevation	Nathalie Scipioni Architects	19/06/2023
S 05	A	West Elevation and Section AA	Nathalie Scipioni Architects	19/06/2023
S 06	A	Schedule of External Colours and Finishes	Nathalie Scipioni Architects	19/06/2023

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

B. Modify Condition A4 as follows:

External Finishes and Materials

A4. External finishes and materials must be in accordance with the submitted schedule dated 17 May 2021, prepared by NS Studio and received by Council on 19 May 2021 and the submitted schedule dated 17 April 2023, prepared by Nathalie Scipioni Architects received by Council on 19 June 2023 unless otherwise modified by Council in writing or by Condition C4. 'External Colours and Finishes'.

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

Reasons for Approval:

The proposed modification is considered to be generally consistent with the originally approved development consent and meets the requirements of Section 4.55 of the EP&A Act 1979. Furthermore, the proposed modification to retain the existing solid balustrade on the southwestern corner of the rooftop terrace does not result in any material amenity impacts to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granting of development consent to the originally approved development and is considered to be acceptable.

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**.

How community views were taken into account:

The subject application was not notified because the scope of the application seeks to retain an existing solid balustrade and would not change the height or external facade of the building and would not impact adjoining or neighbouring land. The modification application does not require notification pursuant to Section 3.4.2 Modifications to Development Consents granted by Council of Council's Community Engagement Protocol.

The conditions attached to the original consent for Development Application No. **145/21** by endorsed date of **9 July 2021** still apply.

ADVISINGS

(a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Thomas Holman**. 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

17 July 2023

DATE



Signature on behalf of consent authority
MICHAEL STEPHENS
A/TEAM LEADER (ASSESSMENTS)