



Nick Wheatly & Jess Wong
Platform Project Services
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D432/21
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 432/21/5 - APPROVAL**

Development Consent Number: 432/21/5

Land to which this applies: 2 Sutherland Street, Cremorne
Lot No.: 1, DP: 528502

Applicant: Nick Wheatly & Jess Wong, Platform Project Services

Date of Determination: 2 August 2023

Proposal: Section 4.55(2) Modification to Development Consent DA432/21 for the demolition of an existing residential flat building and construction of a Part 4, Part 5 storey residential flat building containing 11 apartments with basement parking for 18 vehicles, and landscaping and associated works.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 2 August 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. **432/21** and registered in Council's records as Application No. **432/21/5** relating to the land described as **2 Sutherland Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 August 2022, has been determined in the following manner: -

A. Impose Condition A6 as follows:

Development in accordance with Plan (S4.55 Modifications)

A6. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on:

Plan Nos.	Issue	Description	Dated	Prepared by	Received
DA0203	2	Lower Ground Floor Plan	17 March 2023	3EM Architects	3 July 2023
DA0504	2	West Elevation	17 March 2023		3 July 2023
DA0602	2	Section B	17 March 2023		3 July 2023
DA0604	3	Section E & E1	17 March 2023		3 July 2023
DA0605	3	Section F	17 March 2023		3 July 2023

except as amended by the following conditions and this consent.

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

B. To amend condition C46 as follows:

BASIX Certificate

C46 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. **1256357M_6** dated **8 March 2023** 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)

Reason for approval:

The Panel considers there are no adverse impacts created by the modification and the amenity of the second bedroom is reasonable.

How community views were taken into account:

The application was notified in accordance with Council Community Engagement Protocol from 9 June 2023 until 23 June 2023. No submissions were received, nevertheless, the potential impacts of the proposed modifications have been considered in the assessment report.

The conditions attached to the original consent for Development Application No. 432/21 by endorsed

date of 3 August 2022 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Michael Stephens. 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



8 August 2023

DATE

Signature on behalf of consent authority
MIGUEL RIVERA
A/TEAM LEADER (ASSESSMENTS)