



Ms Karen Fleur Reid and  
Mr Matthew Sorensen  
70 Colin Street  
CAMMERAY NSW 2062

D452/21  
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 451/21/2 - APPROVAL**

**Development Consent Number:** 451/21

**Land to which this applies:** 70 Colin Street, Cammeray  
Lot No.: N, DP: 419031

**Applicant:** Karen Fleur Reid and Matthew Sorensen

**Proposal:** Modification to approved development application including changes to approved number and location of windows and installation of an air conditioner 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. **451/21** and registered in Council's records as Application No. **451/21/2** relating to the land described as **70 Colin Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **11 August 2021**, has been determined in the following manner:

**1. Condition A1 is amended as follows:**

**Development in Accordance with Plans (S4.55 Amendments)**

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: -

No.	Title	Drawn by	Date	Received
DA01	Cover and Site Plan	Contemporary Architecture	21/12/2021	22/12/2021
DA07	Ground Floor Plan Front	Contemporary Architecture	21/12/2021	22/12/2021
DA08	Ground Floor Plan Rear	Contemporary Architecture	21/12/2021	22/12/2021
DA09	Level 1 Plan	Contemporary Architecture	21/12/2021	22/12/2021
DA10	Roof Plan	Contemporary Architecture	21/12/2021	22/12/2021
DA11	Street Elevation and Elevation SE, 1 and 3	Contemporary Architecture	21/12/2021	22/12/2021
DA12	Elevation 2 and 4	Contemporary Architecture	21/12/2021	22/12/2021

DA13	Section A and B	Contemporary Architecture	21/12/2021	22/12/2021
DA14	Section C	Contemporary Architecture	21/12/2021	22/12/2021
DA15	Section D, E and F	Contemporary Architecture	21/12/2021	22/12/2021
FS01	Finishes Schedule	Contemporary Architecture	21/12/2021	22/12/2021

Except as modified as such on the following drawings for DA 452/21/2:

No.	Revision	Title	Drawn By	Date	Received
S4.55-01	A	Cover and Site Plan	-	19/06/2023	17/07/2023
S4.55-04	A	Ground Floor Plan Front	-	19/06/2023	17/07/2023
S4.55-05	A	Ground Floor Plan Rear	-	19/06/2023	17/07/2023
S4.55-06	A	Level 1 Plan	-	19/06/2023	17/07/2023
S4.55-07	A	Roof Plan	-	19/06/2023	17/07/2023
S4.55-08	A	Street Elevation & Elevation SE, 1 and 3	-	19/06/2023	17/07/2023
S4.55-09	A	Elevation 2 and 4	-	19/06/2023	17/07/2023

Any physical works completed prior to 14 September 2023 are not approved by this consent. These works are approved for use and may remain, provided they comply with the National Construction Code.

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

**2. Condition C16 is amended as follows:**

**BASIX Certificate**

C16. Under clause 75 of the *Environmental Planning & Assessment Regulation 2021*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **A442588\_02** (dated 27 June 2023) for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier 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)

**3. A new Condition C20 is added as follows:**

**Air Conditioners in Residential Premises**

C20. The use of any air conditioner installed on the premises must comply with the requirements of the *Protection of the Environment Operations (Noise Control) Regulations 2017* and *State Environmental Planning Policy (Transport and Infrastructure) 2021* and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
  - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
  - (ii) before 7.00am or after 10.00pm on any other day

- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

4. **Condition G5 is amended as follows:**

**BASIX Completion Receipt**

- G8. In accordance with Section 45 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, prior to issuing a final occupation certificate the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

---

The proposed modifications satisfies the provisions of Section 4.55(2) in that the proposed development remains substantially the same as what was approved by DA452/21. The proposed modifications would not significantly change the level of compliance with the relevant development standards and controls as contained in NSLEP 2013 and NSDCP 2013.

The proposed modifications will not have any adverse impact upon the existing neutral item within the conservation area that was originally constructed in 1921 and will not involve any further demolition/removal of significant fabric.

**Reasons for Approval:**

Notably, the proposal is wholly contained within the footprint of the development and will not alter the building height, bulk and massing, setbacks, site coverage, landscaped area and un-built upon areas of the approved scheme. The minor changes to the approved development will result in some improvements to the semi-detached residence in terms of amenity and functionality whilst not resulting in adverse environmental impacts and not compromising the amenity of adjoining properties. Accordingly, the proposal remains consistent with the original reasons for granting consent.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be **approved**.

---

**How community views were taken into account:**

The subject application was notified to adjoining properties and the Bay Precinct Committee seeking comment, and two submissions were received. Nevertheless, it is considered that the proposed modifications would not substantially alter the potential impacts in comparison to the approved development and would not cause any unreasonable impacts to the streetscape and/or adjoining properties.

The conditions attached to the original consent for Development Application No. **451/21** by endorsed date of **11 August 2021** still apply.

**ADVISINGS**

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

**18 September 2023**

DATE



Signature on behalf of consent authority  
ISOBELLA LUCIC  
**TEAM LEADER (ASSESSMENTS)**