



M Halmos
Suite 209/3 Eden Street
North Sydney NSW 2060

D279/21/2
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 279/21/2 - APPROVAL**

Development Consent Number: **279/21/2**

Land to which this applies: 30 Myrtle Street, North Sydney
Lot No.: 1, DP: 865230

Applicant: Marian Halmos

Proposal: To modify a consent to delete Condition C14(c) pertaining to the east-facing windows in the first floor master bedroom and to amend Condition C14(d) pertaining to the reduced balcony width, and extension of approved sliding doors, addition of two (2) skylights on the ground floor and deletion of window (W-03) in first floor bedroom.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 6 September 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. **279/2021** and registered in Council's records as Application No. **279/2021/2** relating to the land described as **30 Myrtle Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 25 May 2023, has been determined in the following manner: -

Panel Determination

The Panel members undertook a group site inspection prior to the meeting and have considered all written and oral submissions.

The Council Officer's Report, Recommendation and Conditions are endorsed by the Panel subject to the imposition of an additional condition to provide for a small tree that has a mature height of 4 to 5 metres in the south-eastern deep soil area. The tree species selected is to be suitable to the location and positioned to filter viewing from the balcony to 34 Myrtle Street. The landscape plan is to be amended accordingly.

Condition C14 is to be amended to reflect the landscaping requirement.

Panel Reason

An additional condition to provide for a small tree that has a mature height of 4 to 5 metres in the south-eastern deep soil area. The tree species selected is to be suitable to the location and positioned to filter viewing from the balcony to 34 Myrtle Street. The landscape plan is to be amended accordingly.

1. To amend condition A1 of the consent so as to read as follows:

Development in Accordance with Plans/Documentation

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	Received
S4.55-01	A	Site Plan	M Halmos – Architect	4 Aug 2023
S4.55-05	A	Ground Floor Plan	M Halmos – Architect	17 May 2023
S4.55-06	B	First Floor Plan	M Halmos – Architect	17 May 2023
S4.55-07	A	Roof Plan	M Halmos – Architect	17 May 2023
S4.55-08	A	Sections S-01 and S-03	M Halmos – Architect	17 May 2023
S4.55-09	A	Section S-02	M Halmos – Architect	17 May 2023
S4.55-10	A	North and West Elevations	M Halmos – Architect	17 May 2023
S4.55-11	B	South and East Elevations	M Halmos – Architect	4 Aug 2023

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

2. To amend condition C14 of the consent so as to read as follows:

Privacy Measures and Design Changes

C14. The following privacy devices are to be provided:

- a) Obscure glazing should be used and maintained for the stairwell to reduce the extent of clear glazing on this elevation.
- b) Obscure glazing should be used and maintained for the north-facing windows of the first floor.

- c) **Windows** in the main bedroom **along the east facing elevation are to feature translucent glazing to a 1.6m height (measured above the finished floor level) and all openable window panels (on the eastern side) must be awning-style, with a restricted opening of 125mm.**
- d) Modify the first floor bedroom balcony to have **balustrades** with a solid form that is designed to reasonably maintain amenity for adjoining properties.
- e) To delete window W09 and replace with a window on the western elevation of the first floor bathroom and obscure glazing.
- f) **Install a tree comprising a species capable of attaining a minimum height of 4 metres, within south-eastern deep soil area, adjacent to the common boundary with No. 32 Myrtle Street. The tree shall be located immediately adjacent to the southern boundary of the site, north of No. 32 Myrtle Street and directly in front of the boundary fencing - as annotated on the approved plans.**

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 an adequate level of privacy is provided to adjoining properties)

3. To amend Condition C18 of the consent so as to read as follows:

BASIX Certificate

C18. 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. **A397548_03** 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 that with the balustrade as conditioned to be solid/non transparent with the only access from a bedroom, and the additional condition for a tree to filter sight lines to the rear of No. 34, then the proposal for the balcony to be increased in depth to 1.2m is satisfactory.

How community views were taken into account:

The notification of the modification application resulted in a single submission from an adjoining neighbour. The relevant issues raised by this submitter has been adequately addressed within the report to the Panel.

The conditions attached to the original consent for Development Application No. 279/21 by endorsed date of 25 May 2023 still apply.

ADVISINGS

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

14 September 2023

DATE



Signature on behalf of consent authority
Miguel Rivera
A/TEAM LEADER (ASSESSMENTS)