



Corben Architects Pty Ltd
14/40 Yeo Street
NEUTRAL BAY NSW 2089

D229/21/2
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 229/21/2 - APPROVAL**

Development Consent Number: DA 229/21/2

Land to which this applies: 4 - 6 MacPherson Street, Cremorne
Lots No.: A and B DP: 327728

Applicant: Corben Architects

Proposal: Modifications to development consent (D229/21) including a reduction in the number of apartments from 11 to 7, replace car lift with a ramp to basement parking, external changes and changes to various conditions of consent.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 4 October 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. **229/21** and registered in Council's records as Application No. **229/21/2** relating to the land described as **4-6 MacPherson Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination date 13 December 2021, has been determined in the following manner: -

1. *To modify the development consent (D229/21) and modify conditions A1, A3, C2, C11, C12, C13, C16, C17, C26, C28, C32, C33, C36. C37, C38, C39, C40, C41, G23 and I6 to read as follows:*

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the following drawings:

Plan No.	Rev No.	Description	Prepared by	Dated
DA02	I	Site Analysis	Corben Architects	20/10/21
DA03	I	Basement Plan	Corben Architects	20/10/21
DA04	I	Level 1 Plan	Corben Architects	20/10/21
DA05	I	Level 2 Plan	Corben Architects	20/10/21
DA06	I	Level 3 Plan	Corben Architects	20/10/21
DA07	I	Level 4 Plan	Corben Architects	20/10/21
DA08	I	Roof Plan	Corben Architects	20/10/21
DA09	I	North Elevation	Corben Architects	20/10/21
DA10	I	East Elevation	Corben Architects	20/10/21
DA11	I	South Elevation	Corben Architects	20/10/21
DA12	I	West Elevation	Corben Architects	20/10/21
DA13	I	Section AA	Corben Architects	20/10/21
DA14	I	Section BB	Corben Architects	20/10/21
DA15	I	Section CC	Corben Architects	20/10/21
DA16	I	Section DD	Corben Architects	20/10/21
DA30	I	External Finishes	Corben Architects	20/10/21
C101	C	Landscape Concept Plan	Site Image	22/10/21
C102	C	Landscape General Arrangement Plan	Site Image	22/10/21
C103	C	Planting Plan/Plant Schedule	Site Image	22/10/21
C104	C	Landscape Specification Note	Site Image	22/10/21
C105	C	Landscape Detail	Site Image	22/10/21

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D229/21/2:

Plan No.	Rev No.	Description	Prepared by	Dated
DA02	P	Site Analysis	Corben Architects	27/4/2023
DA03	P	Basement Plan	Corben Architects	27/4/2023
DA04	Q	Level 1 Plan	Corben Architects	14/9/2023
DA05	P	Level 2 Plan	Corben Architects	27/4/2023
DA06	P	Level 3 Plan	Corben Architects	27/4/2023
DA07	P	Level 4 Plan	Corben Architects	27/4/2023
DA08	Q	Roof Plan	Corben Architects	3/8/2023
DA09	Q	North Elevation	Corben Architects	3/8/2023
DA10	Q	East Elevation	Corben Architects	3/8/2023
DA11	Q	South Elevation	Corben Architects	3/8/2023
DA12	Q	West Elevation	Corben Architects	3/8/2023
DA13	P	Section AA	Corben Architects	27/4/2023
DA14	P	Section BB	Corben Architects	27/4/2023
DA15	P	Section CC	Corben Architects	27/4/2023
DA16	P	Section DD	Corben Architects	27/4/2023
DA26	P	Exterior Finishes	Corben Architects	27/4/2023
101	F	Landscape Concept Plan	Site Image	3/4/2023
102	F	Landscape General Arrangement Plan	Site Image	3/8/2023

103	F	Planting Plan/Plant Schedule	Site Image	3/8/2023
104	D	Landscape Specification Note	Site Image	29/3/2023
105	D	Landscape Detail 01	Site Image	29/3/2023
106	F	Landscape Detail 02	Site Image	3/8/2023

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

External Finishes and Materials

- A3. External finishes and materials must be in accordance with the submitted schedule drawing numbered DA26, Issue P, prepared by Corben Architects, dated 27 April 2023, unless otherwise modified by Council in writing.

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

Compliance with Acoustic Report

- C2. All recommendations contained in the acoustic report prepared by Acoustic Logic Pty Ltd, dated 10 May 2021, must be implemented during construction, and use of the development as an on-going requirement.

A detailed acoustic review of all mechanical plant (car lift, air conditioning, exhaust systems, fans, laundry, lift etc.) shall be undertaken at CC stage to determine acoustic treatments necessary to control noise level emissions to satisfactory levels to comply with conditions of this consent.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australasian Acoustical Consultants, certifying that the acoustic mitigation measures outlined in the above stated report and the further detailed acoustic review of all mechanical plant, have been suitably incorporated into the development, and that relevant noise criteria have been satisfied, must be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate for the construction works of the approved development.

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 maintain an appropriate level of amenity for adjoining land uses)

Reflectivity Index of Glazing

- C11. The reflectivity index (expressed as a per centum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development. 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: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

Roofing Materials - Reflectivity

C12. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development. 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 that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

No External Service Ducts

C13. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development. 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 quality built form of the development)

Basement Car Park to comply with relevant standards

C16. The design of the basement carpark and associated works must comply with all requirements of the Australian Standard AS2890.1 including the following requirements.

- (a) The design of the proposed parking spaces for people with disability must comply with the Australian Standard AS2890.6;
- (b) The design of bicycle parking and storage facilities must comply with the Australian Standard AS2890.3;
- (c) The design of the new driveway to the site must comply with the minimum pedestrian sightline safety in accordance with Figure 3.2 of AS2890.1.
- (d) A "ONE WAY" sign be installed opposite to the driveway entrance to the basement carpark on Langley Avenue.

The applicant/developer shall pay for the cost associated with the installation of the signage by Council staff. The Principal Certifier must ensure that the building plans/documentation and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure compliance with the relevant Australian Standards)

Required Infrastructure Works –Roads Act 1993

C17. Prior to issue of the Construction Certificate for the construction works of the approved development, engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development. To obtain the permit, an application must be made to Council on a '*Application to satisfy development consent*' form with payment of the adopted assessment/inspection fees. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative:

Road Works

- a) Construction of a fully new replacement concrete footpath is required across the entire site frontage in MacPherson Street and Langley Avenue. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is uniform without showing signs of dipping or rising particularly at entrances.
- b) The redundant layback crossings on all street frontages - MacPherson Street and Langley Avenue and Parraween Street must be reinstated as upright kerb gutter and concrete footpath, grass verge (where applicable) or New Public Domain Style pavers footpath (where applicable).
- c) The full width – full property frontage road carriageway surface reconstruction in AC14 - 50mm thick is required in Langley Avenue.
- d) Construction of a fully new kerb and gutter is required across the entire site frontage in Langley Avenue at the present levels. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- e) Cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.
- f) Reconstruction of a fully new road shoulder AC10 - 50mm thick at the existing grades towards new kerb & gutter extending to 600 mm out from the gutter alignment and across the redundant laybacks in Parraween Street and MacPherson Street.

- (g) The proposed vehicular access way in Langley Avenue must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking (car lift) floor.
- (h) The width of the vehicular layback must be 4.5m (including the wings).
- (i) The boundary footpath levels and gutter invert levels must match the existing levels and shall not be altered unless agreed to by Council.
- (j) Alignment levels at the boundary have an important impact on the proposed levels for new driveway. The works must not start until confirmation of boundary alignment levels from registered surveyor. Council has the authority to remove any unauthorized works at the cost of the property owner.
- (k) The Certifying Authority must ensure that the internal property levels at boundary matches council's confirmed boundary levels.
- (l) All inspection openings, utility services must be adjusted to match the proposed driveway levels and location.
- (m) The design detail has to be provided with **vehicular access application** and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- (n) A longitudinal section along the gutter line of Langley Avenue at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels and shall include all changes of grade and levels, **both** existing and proposed.
- (o) A longitudinal section along the footpath property boundary of Langley Avenue and MacPherson Street at a scale of 1:50 is required and shall include all changes of grade and levels, **both** existing and proposed.
- (p) The sections must show the calculated clearance to the underside of any overhead structure.
- (q) A swept path analysis is required demonstrating that an 85th percentile vehicle can maneuver in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

Drainage Works

Connection of the site stormwater system must be made directly to a newly constructed grated gully pit (with lintel), to front the site on Langley Avenue. To accommodate this requirement, the following drainage infrastructure works must be carried out on Council property at the Applicants expense:-

- a) Construction of a standard grated gully pit with extended kerb inlet (1.8m lintel) in the kerb fronting the subject site in Langley Avenue. The pit must be constructed in accordance with Councils "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".
- b) Construction of a standard junction pit for connection purpose over the existing Council's stormwater line in Langley Avenue. The pit must be constructed in accordance with Council's "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".

- c) Construction of a new in-ground connection drainage line under the road carriageway at standard depth. Within the road reserve, pipe shall have a minimum cover of 450mm and have bedding in accordance with Australian Standard AS 3725 – (Loads on buried concrete pipes). The developer shall be responsible for carrying out any service investigations to allow a gravity connection.

Plans and specifications which comply 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 not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the *Roads Act 1993*.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

***Note:** A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

Garbage and Recycling Facilities

- C26. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:
- a) all internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
 - b) provision for the separation and storage in appropriate categories of material suitable for recycling;

- c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2 m from the street boundary of the property;
- d) the temporary garbage holding bay on Langley Avenue must be designed to fit a minimum 8 x 240L bins;
- e) garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- f) A Council authorised key is required for any collection rooms needing key access by contractors.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development.

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: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

Location of Plant

- C28. The location of plant and equipment, including but not limited to air conditioning equipment, is to be located within the basement of the building and on the roof as shown on the approved plans, and not to be located on balconies.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of the Construction Certificate for the construction works of the approved development. 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Acoustic Privacy (Residential Apartments)

- C32. Noise levels in sole occupancy units of residential apartments must not exceed the following:

Location	Maximum
Habitable Rooms other than Sleeping Areas	40 LAeq (1hr)
Sleeping Areas	35 LAeq (1hr)

The "Maximum" limits are to apply in any hour of a 24-hour period with the windows of the sole occupancy unit closed.

"habitable room" has the same meaning as in the Building Code of Australia.

A floor separating sole occupancy units shall have a weighted standardised impact sound pressure level $L'_{nT,w}$ not more than 55dB when measured in-situ in accordance with AS ISO 140.7-2006 "Field measurements of impact sound insulation of floors" and rated to AS ISO 717.2-2004 "Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation". This clause shall not apply to the floor of a kitchen, bathroom, toilet or laundry in a residential sole occupancy unit.

Mechanical equipment such as lift plant, air conditioning plant servicing the building and pumps shall not be located immediately adjacent bedrooms.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development.

(Reason: To comply with best practice standards for residential acoustic amenity)

Noise and Vibration Compliance Certification Prior to Issue of Construction Certificate

C33. A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that suitable measures have been incorporated into the development and that the noise criteria contained in the conditions herein have been satisfied, must be provided to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development.

The Principal 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 maintain an appropriate level of amenity for adjoining land uses)

Underground Electricity and Other Services

C36. All overhead electricity and other lines (existing and proposed) must be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground)

Adaptable Housing

C37. Proposed apartment 201 are to be designed with accessible features for disabled persons and must incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps. These features are to be designed generally in accordance with the relevant Australian Standard 4299-1995. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development. 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 equity of access and availability of accommodation in the future for an ageing population)

Section 7.11 Contributions

C38. A monetary contribution pursuant to the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* in accordance with the North Sydney Local Infrastructure Contribution Plan 2020 for the public amenities/services detailed in the table below, must be paid to Council.

s7.11 contribution:

Open space and recreation facilities:	\$55,064.46
Public domain:	\$30,652.75
Active transport:	\$1,749.54
Community facilities:	\$11,059.95
Plan administration and management:	\$1,473.30

The total contribution is \$100,000.00

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 Deposit/Guarantee Schedule

C39. 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 (\$)
Street Tree Bond (on Council Property)	\$40,000.00
Infrastructure Damage Bond	\$40,000.00
Drainage Construction Bond	\$6,500.00
Engineering Construction Bond	\$220,000.00
TOTAL BONDS	\$306,500.00

Fees	Amount (\$)
Section 7.11 contribution	\$100,000.00
TOTAL FEES	\$100,000.00

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

C40. 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. **1219674M_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 the Construction Certificate for the construction works of the approved development. 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)

Outdoor Lighting

C41. All outdoor lighting must comply with, where relevant AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

Compliance with Certain conditions

G23. Prior to the issue of any Occupation Certificate A4, C1, C2, C3, C29, C46 and C47 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

Allocation of Spaces

16. The allocation of carparking spaces within the development must be maintained at all times in accordance with the terms of this consent. The allocation of spaces must be maintained in accordance with the following table:

9 Residential
1 Residential - Visitors

Carparking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the owner's corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

2. To insert new conditions A4, C46, C47, E30 and E31 to read as follows:

Terms of Consent (D229/21/2)

A4. Approval is granted for the following modifications only:

- (a) Reduction in the number of apartments within the approved development from 11 to 7, associated changes to fenestration, internal layout and unit mix of the approved apartment building;
- (b) Increase floor to floor heights on each above ground level by 150mm and 640mm for the overall building height to a maximum height at RL 95.10 to achieve compliance with the relevant building codes and design requirements;
- (c) Modifications to the design of the roof with addition of skylights, plant areas and solar panels;
- (d) Modifications to the design of the fire stairs including white rendered concrete replacing approved metal cladding, the addition of a green wall on the eastern elevation;
- (e) Addition of a communal area within the communal open space as required by Condition C1 in the original DA consent and the relocation of the OSD under the communal open space;
- (f) Modifications to vehicular access to the basement parking replacing the approved car lift with a ramp off Langley Avenue;
- (g) Modifications to the configuration of the basement car park including relocation of parking spaces and the bin storage room as well as the addition of a pump room to meet fire safety requirements; and
- (h) Lowering of the basement car park level by 250mm to RL 78.80 to comply with building requirements and AS2890.6 to provide sufficient height clearance for accessible parking spaces.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

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

Privacy Protection

C46. A 2.3m wide fixed privacy must be installed on top of the balustrades of the living room balcony for Apartments 203 and 303 to protect visual privacy for the adjoining property to the north of the subject site.

The eastern end of the privacy screen shall adjoin the eastern wall of the balcony and the top of the privacy screen shall match the base of the spandrel of Levels 3 and 4.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development. 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 protect visual privacy for the neighbouring properties)

Solar Panels

- C47. The solar panels on the roof shall be laid with a maximum tilt angle of 7% from the roof plane in order to minimise visual impacts for the neighbouring properties.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the construction works of the approved development. 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 minimise visual impacts for the neighbouring properties)

Construction of On-site Detention Tank

- E30. The excavation and construction of the on-site detention tank and its associated works shall be carried out under supervision of project arborist to ensure adequate soil depth and root zone for T1 transplanted Plumeria.

(Reason: To ensure protection of vegetation on site.)

Site Remediation

- E31. Should any fill be encountered during excavation, soil testing shall be undertaken to ascertain the status of the fill with respect to contamination and to establish a waste classification of the material.

Results of such soil testing shall be assessed against site acceptance criteria developed with reference to Assessment of Site Contamination-National Environmental Protection Measure (1999 amended 2013).

In the event contaminated soil is identified at the site through the soil testing process or otherwise, an Environmental Management Plan /Remedial Action Plan shall be prepared by a suitably qualified person/environmental consultant detailing the process for excavation, storage and handling, classification, disposal, or reuse of disturbed soils on site.

Any soils found to contain contaminants of concern must be classified for disposal purposes, appropriately stored, and properly disposed of to a facility licensed to receive that category of waste. The site will be required to be adequately remediated and validated as being fit for its intended use by a suitably experienced environmental consultant.

(Reason: To ensure the land is suitable for its intended purpose)

3. To delete Condition C42:

Remediation

~~C42. Prior to the release of the Construction Certificate the site must be remediated in accordance with:~~

- ~~(a) an approved Remedial Action Plan; and~~
- ~~(b) North Sydney Development Control Plan 2013 - Section 14 - Contamination and Hazardous Building Materials; and~~
- ~~(c) State Environmental Planning Policy No. 55 - Remediation of Land; and,~~
- ~~(d) the guidelines in force under the Contaminated Land Management Act.~~

~~Within thirty (30) days after the completion of the remediation works, and prior to the issue of any construction certificate, a notice of completion, including validation and/or monitoring report is to be provided to Council. This notice must be consistent with State Environmental Planning Policy No. 55 - Remediation of Land.~~

~~Prior to the issue of any Construction Certificate, the validation and/or monitoring report is to be independently audited and a Site Audit Statement issued. A copy of the Site Audit Statement is to be provided to the Certifying Authority and Council (if Council is not the Certifying Authority). The audit is to be carried out by an independent auditor accredited by the Environment Protection Authority. Any conditions recorded on the Site Audit Statement must be complied with at all times.~~

~~(Reason: To ensure the land is suitable for its intended purpose)~~

Reason for approval:

The Panel considered that the proposal should be approved and accepted the Applicant's submission that a maximum tilt angle of 7% would facilitate self-cleaning/improve energy efficient and minimise visual impact.

How community views were taken into account:

The owners of the adjoining properties and the Brightmore Precinct were notified about the application between 9 and 23 June 2023. The notification has attracted one (1) submission and the issues raised in the submission have been addressed in the assessment report.

The conditions attached to the original consent for Development Application No. 229/21 by endorsed date of 13 December 2021 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

10 October 2023

DATE



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