



Cracknell & Lonergan Architects Pty Limited
156A Church Street
NEWTOWN NSW 2042

D164/18
DWH (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 164/18/7 - APPROVAL**

Development Consent Number: 164/18

Land to which this applies: 6 Thrupp Street, Neutral Bay
Lot No.: 1, DP: 543026

Applicant: Cracknell & Lonergan Architects Pty Limited

Proposal: Modify Development Consent DA164/18 proposing various modifications to approved residential flat building and amendment to conditions

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. **164/18** and registered in Council's records as Application No. **164/18/7** relating to the land described as **6 Thrupp Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **6 March 2019**, has been determined in the following manner:

1. To modify Condition A1 of the consent 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 as follows:

Plan Nos.	Rev	Description of Works	Dated	Prepared by	Received
DA 101	D	Ground floor plan	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 102	D	First floor Plan	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 103	D	Roof plan	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 201	D	Elevations	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 301	D	Sections	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 302	D	Concept detail section	15/8/2018	Cracknell & Lonergan Architects	16/11/2018

Except as modified in highlighting on the following plans:

Modification 2

Plan Nos.	Rev	Description of Works	Dated	Prepared by	Received
S4.55 101	A	Ground floor plan	31/7/2020	Cracknell & Lonergan Architects	18/12/2020
S4.55 102	A	First floor Plan	31/7/2020	Cracknell & Lonergan Architects	18/12/2020
S4.55 103	A	Roof plan	31/7/2020	Cracknell & Lonergan Architects	18/12/2020
S4.55 201	A	Elevations	31/7/2020	Cracknell & Lonergan Architects	18/12/2020
S4.55 301	A	Sections	31/7/2020	Cracknell & Lonergan Architects	18/12/2020
S4.55 302	A	Concept detail section	31/7/2020	Cracknell & Lonergan Architects	18/12/2020

Modification 7

Plan Nos.	Rev	Description of Works	Dated	Prepared by	Received
S4.55 101	E	Ground floor plan	11/05/2023	Cracknell & Lonergan Architects	11/05/2023
S4.55 102	E	First floor Plan	11/05/2023	Cracknell & Lonergan Architects	11/05/2023
S4.55 103	E	Roof plan	11/05/2023	Cracknell & Lonergan Architects	11/05/2023
S4.55 201	E	Elevations	11/05/2023	Cracknell & Lonergan Architects	11/05/2023
S4.55 301	E	Sections	11/05/2023	Cracknell & Lonergan Architects	11/05/2023
S4.55 302	E	Concept detail section	11/05/2023	Cracknell & Lonergan Architects	11/05/2023
S4.55 501	E	Materials and Finishes	11/05/2023	Cracknell & Lonergan Architects	11/05/2023

Except where amended by the following conditions of consent.

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

2. Condition Nos. A3 and C24 are amended to read as follows:

External Finishes & Materials

A3. External finishes and materials must be in accordance with the submitted schedule on DA401 Issue A, dated May 2018, prepared by Cracknell and Lonergan Architects, and received by Council on 4 June 2018, except where amended by amended by plan numbered 501 Issue E, dated 11 May 2023, prepared by Cracknell & Lonergan, referred to in Condition A1, or except where 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)

BASIX Certificate

C24. Under clause 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **931770M_06** 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 any 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. Condition Nos. C4 and C20 be deleted from the consent.

4. Condition Nos C2 and C3 be amended to read as follows:

Dilapidation Report Private Property (Excavation)

- C2. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by an appropriately qualified person and a copy provided to Council and the owner of any affected adjoining property. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/ies prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A photographic survey and dilapidation report of adjoining property Nos. **4 Thrupp Street, 8 Thrupp Street, 47 and 49 Aubin Street**, detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, **SHALL BE** submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Reasons for Approval:

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted 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 proposal is considered to be in the public interest for the reasons stated throughout this report.

The conditions attached to the original consent for Development Application No. **164/18** by endorsed date of **6 March 2019** still apply.

ADVISINGS

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

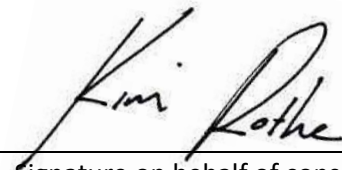
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 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 April 2024

DATE



Signature on behalf of consent authority

Per KIM ROTHE

SENIOR ASSESSMENT OFFICER