

Original signed by: **Geoff Mossemenear** on: **3/5/19**

AIDOP No. 2 Pty Ltd
Suite 4.07, Level 4
55 Miller Street
PYRMONT NSW 2009

D54/18
GM (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.56 MODIFICATION 54/18/2 – APPROVAL

Development Consent Number: **54/18/2**

Land to which this applies: 14-20 Premier Street, Neutral Bay
Lot No.: 0, CT: 40

Applicant: AIDOP No. 2 Pty Ltd

Proposal: To modify Court consent to demolish four existing residential flat buildings and construct a residential building with basement parking.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 1 May 2019.

Pursuant to Section 4.56 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **54/18** and registered in Council's records as Application No. **54/18/2** relating to the land described as **14-20 Premier Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in the Land & Environment Court Order dated 21/12/2018, has been determined in the following manner: -

To delete conditions C30 and C32 and insert the following new conditions:

Development in Accordance with Plans (S4.56 Amendments)

- A4. 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 by clouding on:

Plan No.	Issue	Title	Drawn by	Received
A2201	DA01	Ground 3 Plan	ESS Lifestyle Pty Ltd	6 March 2019
A2202	DA01	Ground 2 Plan	ESS Lifestyle Pty Ltd	6 March 2019
A2203	DA01	Ground 1 Plan	ESS Lifestyle Pty Ltd	6 March 2019
A2204	DA01	Ground Plan	ESS Lifestyle Pty Ltd	6 March 2019
A2205	DA01	Level 01	ESS Lifestyle Pty Ltd	6 March 2019
A2206	DA01	Level 02	ESS Lifestyle Pty Ltd	6 March 2019
A2207	DA01	Roof	ESS Lifestyle Pty Ltd	6 March 2019
A2250	DA01	Street Frontage	ESS Lifestyle Pty Ltd	6 March 2019
A3101	DA01	East Elevation	ESS Lifestyle Pty Ltd	6 March 2019
A3102	DA01	West Elevation	ESS Lifestyle Pty Ltd	6 March 2019
A3103	DA01	West Elevation Fence	ESS Lifestyle Pty Ltd	6 March 2019
A3104	DA01	North Elevation	ESS Lifestyle Pty Ltd	6 March 2019
A3105	DA01	North Elevation Fence	ESS Lifestyle Pty Ltd	6 March 2019
A3106	DA01	South Elevation	ESS Lifestyle Pty Ltd	6 March 2019
A3107	DA01	South Elevation Fence	ESS Lifestyle Pty Ltd	6 March 2019
A3201	DA01	Section A	ESS Lifestyle Pty Ltd	6 March 2019
A3202	DA01	Section B	ESS Lifestyle Pty Ltd	6 March 2019
A3203	DA01	Section C	ESS Lifestyle Pty Ltd	6 March 2019
A6201	DA01	Section Detail 01	ESS Lifestyle Pty Ltd	6 March 2019
A6202	DA01	Section Detail 01	ESS Lifestyle Pty Ltd	6 March 2019
A6203	DA01	Section Detail 02	ESS Lifestyle Pty Ltd	6 March 2019
A6204	DA01	Section Detail 03	ESS Lifestyle Pty Ltd	6 March 2019
A6205	DA01	Section Detail 04	ESS Lifestyle Pty Ltd	6 March 2019
A6206	DA01	Section Detail 05	ESS Lifestyle Pty Ltd	6 March 2019
A8201	DA01	Finishes	ESS Lifestyle Pty Ltd	6 March 2019

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)

Section 7.11 Contributions

C30. 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 Council Section 7.11 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

A	B (\$)
Administration	2,296.94
Child Care Facilities	3,978.35
Community Centres	10,427.18
Library Acquisition	1,945.51
Library Premises & Equipment	6,017.01
Multi-Purpose Indoor Sports Facility	1,643.12
Open Space Acquisition	65,580.27
Open Space Increased Capacity	129,992.19
Olympic Pool	5,351.58
Public Domain Improvements	5,138.57
Traffic Improvements	6,307.49
The total contribution is	<u>238,678.21</u>

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 Section 7.11 Contribution Plan 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)

BASIX Certificate

C32. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 899773M_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)

Modifications required to units 1.02 and 1.03

C42. The following changes are required to units 1.02 and 1.03:

Unit 1.02

- Reduce deck/balcony area to 10m²; Change 6m² deck/balcony outside of second bedroom to 3m² (maximum depth of 1 metre for balcony) with the remainder a non-trafficable landscaped area.
- The northern wall of the balcony/landscaping is to be solid masonry full height wall between Units 1.02 and 1.03 (Reason: Privacy between units).

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 maintain similar privacy impacts to the plans approved by the Court)

Modifications required to unit 2.01

C43. The following changes are required to unit 2.01:

- The three western facing bedroom windows shall have a maximum width of 1500mm.
- The western facing deck/balcony area is to be reduced to 10m² with a maximum depth of 1m from the face of the glazing and a landscaped planter added to the western, southern and northern edges. All landscaped planters are to have a minimum width of 1m and the soil depth of the planters shall be consistent with other planters throughout the development.

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 maintain similar privacy impacts to the plans approved by the Court)

Rooftop and Balcony Garden Areas

C44. All rooftop planted areas and all balcony planted areas are to be non-trafficable save for maintenance purposes.

(Reason: To maintain privacy and amenity of neighbouring properties)

Reason for approval:

The Panel has considered the original Court approval as required under Section 4.56(1A) and considers the amended conditions above satisfy the requirements and the development would be generally consistent with the intent of the original decision.

The Panel is satisfied with the conditions above that the modification is satisfactory and will not adversely impact on neighbouring properties.

How community views were taken into account:

The owners of adjoining properties and the Neutral Precinct were notified of the proposed development on 22 March 2019. The notification resulted in three (3) submissions. The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2019/1_May_2019)

The conditions attached to the original consent for Development Application No. 54/18 by endorsed date of 21/12/2018 still apply.

ADVISINGS

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

DATE

Signature on behalf of consent authority
GEOFF MOSSEMENEAR
A/MANAGER DEVELOPMENT SERVICES