

Marlborough Nominees
C/- COSO Architecture
Suite 4.04, 'The Cooperage'
56 Bowman Street
PYRMONT NSW 2009

D163/17
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 163/17/3 – APPROVAL**

Development Consent Number: 163/17/3

Land to which this applies: 211 Military Road, Cremorne
Lot No.: 0, SP: 30908

Applicant: Marlborough Nominees
C/- COSO Architecture

Proposal: A Section 4.55 (2) application to modify DA 163/17 with regards to the relocation of the air conditioning condensers and addition of glass canopy to third floor walkway.

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. **163/17** and registered in Council's records as Application No. **163/17/3** relating to the land described as **211 Military Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 December 2017, has been determined in the following manner: -

1. Modify Conditions A1, C27 and G19 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:

Dwg No.	Revision	Date	Title	Drawn By	Received
S4.55 01	-	8/11/18	Site Plan	COSO Architecture	12/11/18
S4.55 02	-	8/11/18	Lower Basement Plan	COSO Architecture	12/11/18
S4.55 03	-	8/11/18	Basement Plan	COSO Architecture	12/11/18
S4.55 04	-	8/11/18	Ground Floor Plan	COSO Architecture	12/11/18

S4.55 05	-	8/11/18	First Floor Plan	COSO Architecture	12/11/18
S4.55 06	-	8/11/18	Second Floor Plan	COSO Architecture	12/11/18
S4.55 07	-	8/11/18	Third Floor Plan	COSO Architecture	12/11/18
S4.55 08	-	8/11/18	Roof Plan	COSO Architecture	12/11/18
S4.55 09	-	8/11/18	Front Elevation – North Facing	COSO Architecture	12/11/18
S4.55 10	-	8/11/18	Side Elevation – West Facing	COSO Architecture	12/11/18
S4.55 11	-	8/11/18	Side Elevation – East Facing	COSO Architecture	12/11/18
S4.55 12	-	8/11/18	Courtyard Elevation – North Facing	COSO Architecture	12/11/18
S4.55 13	-	8/11/18	Section BB	COSO Architecture	12/11/18

except as amended by those elements coloured on the following drawings:

Dwg No.	Revision	Date	Title	Drawn By	Received
S4.55 01	-	31/07/19	Site Plan	COSO Architecture	28/08/19
S4.55 02	-	31/07/19	Lower Basement Plan	COSO Architecture	28/08/19
S4.55 03	-	31/07/19	Basement Plan	COSO Architecture	28/08/19
S4.55 04	-	31/07/19	Ground Floor Plan	COSO Architecture	28/08/19
S4.55 05	-	31/07/19	First Floor Plan	COSO Architecture	28/08/19
S4.55 06	-	31/07/19	Second Floor Plan	COSO Architecture	28/08/19
S4.55 07	-	31/07/19	Third Floor Plan	COSO Architecture	28/08/19
S4.55 08	-	31/07/19	Roof Plan	COSO Architecture	28/08/19
S4.55 09	-	31/07/19	Front Elevation – North Facing	COSO Architecture	28/08/19
S4.55 10	-	31/07/19	Side Elevation – West Facing	COSO Architecture	28/08/19
S4.55 11	-	31/07/19	Side Elevation – East Facing	COSO Architecture	28/08/19
S4.55 12	-	31/07/19	Courtyard Elevation – North Facing	COSO Architecture	28/08/19
S4.55 13	-	27/09/19	Section BB	COSO Architecture	27/09/19

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

Location of Plant

C27. The air conditioning equipment is to be located in the areas nominated on the plans that form part of Condition A1 of this consent. 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: Compliance with the terms of this consent)

Compliance with Certain conditions

G19. Prior to the issue of any Occupation Certificate, Conditions C27, C33 and C40 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)

2. Add Condition C40 as follows:

Condenser Unit

C40 Prior to the issue of the construction certificate, the plans must be amended to indicate a timber barrier of minimum 9mm thickness on the western side of the ACU U20 condenser units (Third Floor terrace). The barrier must be located between the western balustrade and the western side of the units. The barrier must be, at a minimum, the height of the condenser units.

(Reason: To ensure compliance with the noise criteria)

Reason for approval:

The proposed modifications are considered to be consistent with the reasons given by the Panel in the granting of the consent to the DA.

How community views were taken into account:

The issues raised in the submission were considered and addressed within the report.

The conditions attached to the original consent for Development Application No. 163/17 by endorsed date of 6 December 2017 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Luke Donovan**. 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
DAVID HOY
TEAM LEADER ASSESSMENTS