

Platino Properties Pty Ltd
Level 2, Suite 11
20 Young Street
NEUTRAL BAY NSW 2089

D142/19
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 142/19/2 – PART APPROVAL**

Development Consent Number: 142/19/2

Land to which this applies: 390-394 Military Road (aka 89 Parraween Street), Cremorne
Lot No.: A & B (DP: 439725) and Lot No.: A (DP 417890)

Applicant: Platino Properties Pty Ltd

Proposal: A Section 4.55 (1A) Application to modify DA142/19 with regards to modification to Condition G17 and the removal of the garbage chute.

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. **142/19** and registered in Council's records as Application No. **142/19/2** relating to the land described as **390-394 Military Road (aka 89 Parraween Street), Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 17 July 2019, has been determined in the following manner: -

1. Modify Condition G17 as follows:

Damage to Adjoining Properties (Recording)

G17. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

1. whether any damage to adjoining properties has occurred as a result of the development;
2. the nature and extent of any damage caused to the adjoining property as a result of the development;
3. the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;

4. the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
5. the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

The report must document whether access has been granted to adjoining properties. In circumstances where access has been denied all reasonable attempts must be made to obtain access to adjoining properties for the purposes of compliance with this condition.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To document damage to adjoining properties and facilitate appropriate civil arrangements to be made to rectify damage arising from the development)

2. *No approval is granted or implied under this consent for the deletion of the garbage chute and recycling room from the development*

It is recommended that Condition G17 be amended noting that this is largely a civil matter between the developer and the potentially affected property owner.

Reason for part approval:

The proposed deletion of the recycling bin room and garbage chute on each residential level is not supported by Council's Waste Management Officer and contrary to NSDCP 2013. The retention of the recycling bin room and garbage chute on each residential level and on the communal roof top of the development is considered appropriate to ensure more convenient access with regards to the disposal of waste and recycling. The reasons advanced by the applicant relating to potential breakdown of the chute and lack of building manager are not considered sufficient to warrant the removal of the recycling room and garbage chute.

Furthermore, given that 9 of the 13 apartments are either 2 or 3 bedrooms, it is considered appropriate to require a recycling bin room and garbage chute on each residential level of the building as well as for the communal area on the roof of the building.

How community views were taken into account:

The S4.55 application was not required to be notified in accordance with Section 3.4.1 of the Community Participation Plan as the proposed changes will not have any material impact on adjoining properties.

The conditions attached to the original consent for Development Application No. 142/19 by endorsed date of 17 July 2019 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
LUKE DONOVAN
TEAM LEADER ASSESSMENTS