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D451/17
KRR (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 451/17/2 – APPROVAL

Development Consent Number: **451/17**

Land to which this applies: 62-64 Bent Street, Neutral Bay
Lot No.: 8, DP: 5524

Applicant: GAT & Associates

Proposal: Section 4.55(2) Modification to DA 451/17 for various modifications to an approved residential flat building principally comprising creation of a sub-basement level.

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. **451/17** and registered in Council's records as Application No. **451/17/2** relating to the land described as **62-64 Bent Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 20 December 2018, has been determined in the following manner: -

1. To amend Condition A1 as follows: -

Development in Accordance with Plans (Section 4.55 Amendments)

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent

DA451/17 Approved Plan List

Drawing Number	Revision/ Issue	Dated	Title	Drawn by	Received
DA102	D	07/05/2018	Site Analysis / Location Plan	AP Innovation Architects	25/5/2018
DA103	C	07/05/2018	Streetscape Analysis and Demolition	AP Innovation Architects	25/5/2018

DA201	F	04/04/2018	Basement Level Access 2 Winter Avenue Access	AP Innovation Architects	25/5/2018
DA202	F	04/04/2018	Basement Level Access 1 Winter Avenue Access	AP Innovation Architects	25/5/2018
DA301	G	18/04/2018	Ground Floor Plan	AP Innovation Architects	25/5/2018
DA302	F	18/04/2018	Level 1 Floor Plan	AP Innovation Architects	25/5/2018
DA303	F	18/04/2018	Level 2 Floor Plan	AP Innovation Architects	25/5/2018
DA304	F	18/04/2018	Level 3 and Adaptable Floor Plan	AP Innovation Architects	25/5/2018
DA401	E	04/04/2018	Roof Plan	AP Innovation Architects	25/5/2018
DA501	E	07/05/2018	Section A	AP Innovation Architects	25/5/2018
DA502	F	04/04/2018	Section B	AP Innovation Architects	25/5/2018
DA503	E	04/04/2018	Section C	AP Innovation Architects	25/5/2018
DA601	C	04/04/2018	East Elevation	AP Innovation Architects	25/5/2018
DA602	E	18/04/2018	North Elevation	AP Innovation Architects	25/5/2018
DA603	E	07/05/2018	West and South Elevations	AP Innovation Architects	25/5/2018

DA451/17/2 Approved Plan List

Drawing Number	Revision/ Issue	Dated	Title	Drawn by	Received
DA201	A	16/08/2019	Section 4.55 Application Basement Level Access 2 Winter Avenue Access	AP Innovation Architects	05/09/2019
DA202	B	18/02/2020	Section 4.55 Application Basement Level Access 1 Winter Avenue Access	AP Innovation Architects	21/02/2020
DA301	A	29/08/2019	Section 4.55 Application Ground Floor Plan	AP Innovation Architects	05/09/2019
DA302	A	29/08/2019	Section 4.55 Application Level 1 Floor Plan	AP Innovation Architects	05/09/2019
DA303	A	29/08/2019	Section 4.55 Application Level 2 Floor Plan	AP Innovation Architects	05/09/2019
DA304	A	29/08/2019	Section 4.55 Application Level 3 and Adaptable Floor Plan	AP Innovation Architects	05/09/2019
DA401	A	11/04/2019	Section 4.55 Application Roof Plan	AP Innovation Architects	05/09/2019
DA501	A	15/08/2019	Section 4.55 Application Section A	AP Innovation Architects	05/09/2019
DA502	A	24/07/2019	Section 4.55 Application Section B	AP Innovation Architects	05/09/2019
DA503	A	15/08/2019	Section 4.55 Application Section C	AP Innovation Architects	05/09/2019
DA601	A	29/08/2019	Section 4.55 Application East Elevation	AP Innovation Architects	05/09/2019
DA602	A	11/04/2019	Section 4.55 Application North Elevation	AP Innovation Architects	05/09/2019
DA603	A	29/08/2019	Section 4.55 Application West and South Elevations	AP Innovation Architects	05/09/2019

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

(Condition modified by DA451/17/2 approved on 23 April 2020)

2. To insert the following Condition I4 as follows: -

Single Occupancy

I4. Nothing in this consent authorises the use of the basement levels of Apartment 01 and Apartment 02 on the ground floor of the building for habitable purposes or split into separated domiciles.

(Reason: To ensure compliance with the terms of this consent)

(Condition inserted by DA451/17/2 approved on 23 April 2020)

Reason for approval:

The proposed modifications are considered to be of no unacceptable impact and are 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 new 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 & 4.15 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 approved.

How community views were taken into account:

The application was notified to adjoining properties and Neutral Precinct in accordance with NSDCP 2013 between 20 September 2019 to 4 October 2019 in accordance with section A4 of the DCP.

The notification of as modified proposal resulted in one submission being received from the Neutral Bay Precinct Committee raising concern with the proposals.

The matters raised have been assessed as being acceptable in the circumstances or dealt with via the existing as imposed conditions of development consent. The public interest is served via the considerations detailed in this report.

The conditions attached to the original consent for Development Application No. 451/17 by endorsed date of 20 December 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
**KIM ROTHE
A/TEAM LEADER ASSESSMENTS**