

Original signed by **Robyn Pearson** on **29/6/2020**

Rebel MH Neutral Bay Pty Ltd  
Suite 4, Level 8, 14 Martin Place  
SYDNEY NSW 2000

D74/19  
LK (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 74/19/4 – APPROVAL**

**Development Consent Number:** 74/19/4

**Land to which this applies:** 14-16B Thrupp Street, Neutral Bay  
SP: 51823

**Applicant:** Rebel MH Neutral Bay Pty Ltd

**Proposal:** Section 4.55(2) modification to DA74/19, which permitted a part four, part five storey residential flat building containing 20 apartments including the introduction of a lift over run, modifications to finished levels, and amended apartment layouts including new and altered external windows.

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. **74/19** and registered in Council's records as Application No. **74/19/4** relating to the land described as **14-16B Thrupp Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 August 2019, has been determined in the following manner: -

- 1. To modify the development consent (DA74/19) and modify condition A1 to list the revised plans:***

**Development in Accordance with Plans (S 4.55 Amendments)**

- A1. The development must be carried out in accordance with the following drawings and documents endorsed with Council's approval stamp:-

Drawing number	Issue/Revision	Title	Drawn by	Dated
DA 000	C	Cover Sheet	PBD Architects	19/07/19
DA 001	C	Project Summary	PBD Architects	19/07/19

DA 003	B	Site Plan	PBD Architects	29/05/19
DA 004	A	Demolition Plan	PBD Architects	05/03/19
DA 100	B	Basement Plan	PBD Architects	05/03/19
DA 101	C	Lower Ground Floor Plan	PBD Architects	19/07/19
DA 102	C	Ground Floor Plan	PBD Architects	19/07/19
DA 103	B	Level 1 Floor Plan	PBD Architects	29/05/19
DA 104	C	Level 2 Floor Plan	PBD Architects	19/07/19
DA 105	C	Level 3 Floor Plan	PBD Architects	19/07/19
DA 106	D	Roof Plan	PBD Architects	19/07/19
DA 200	D	East Elevation	PBD Architects	19/07/19
DA 201	D	South Elevation	PBD Architects	19/07/19
DA 202	D	West Elevation	PBD Architects	19/07/19
DA 203	D	North Elevation	PBD Architects	19/07/19
DA 300	D	Section AA	PBD Architects	19/07/19
DA 301	D	Section BB	PBD Architects	19/07/19
DA 400	D	Material Schedule East	PBD Architects	19/07/19
DA 401	D	Material Schedule South	PBD Architects	19/07/19
DA 402	D	Material Schedule West	PBD Architects	19/07/19
DA 403	D	Material Schedule North	PBD Architects	19/07/19
DA 800	B	3D Perspectives	PBD Architects	29/05/19
DA 801	B	3D Perspectives	PBD Architects	29/05/19
DA 802	B	3D Perspectives	PBD Architects	29/05/19
DA 900	B	Photomontage 1	PBD Architects	29/05/19
002	E	Lower Ground Floor	Habit8	07/06/19
003	E	Ground Floor	Habit8	07/06/19
004	E	Level 1,2 3 Planters	Habit8	07/06/19
005	E	Communal Open Space	Habit8	07/06/19
006	E	Tree Retention Plan	Habit8	07/06/19
007	E	Irrigation Plan	Habit8	07/06/19
008	E	Specifications and Maintenance	Habit8	07/06/19
009	E	Planting Palette	Habit8	07/06/19

Except as modified and clouded as such on the following drawings for DA74/19/2:

Drawing number	Issue/Revision	Title	Drawn by	Dated
DA 000	D	Cover Sheet	PBD Architects	10/09/19
DA 001	D	Project Summary	PBD Architects	10/09/19
DA 100	D	Basement Floor Plan	PBD Architects	10/09/19
DA 101	E	Lower Ground Floor Plan	PBD Architects	10/09/19
DA 102	E	Ground Floor Plan	PBD Architects	10/09/19
DA 103	D	Level 1 Floor Plan	PBD Architects	10/09/19

And further modified and clouded as such on the following drawings for DA74/19/4:

Drawing number	Issue/Revision	Title	Drawn by	Dated
DA 000	G	Cover Sheet	PBD Architects	20/03/20
DA 100	F	Basement Floor Plan	PBD Architects	17/03/20
DA 101	G	Lower Ground Floor Plan	PBD Architects	17/03/20
DA 102	H	Ground Floor Plan	PBD Architects	05/03/20
DA 103	E	Level 1 Floor Plan	PBD Architects	05/03/20
DA 104	G	Level 2 Floor Plan	PBD Architects	05/03/20
DA 105	F	Level 3 Floor Plan	PBD Architects	05/03/20

DA 106	G	Roof Plan	PBD Architects	05/03/20
DA 200	G	East Elevation	PBD Architects	05/03/20
DA 201	G	South Elevation	PBD Architects	05/03/20
DA 202	G	West Elevation	PBD Architects	05/03/20
DA 203	G	North Elevation	PBD Architects	05/03/20
DA 300	G	Section AA	PBD Architects	05/03/20
DA 301	G	Section BB	PBD Architects	05/03/20
DA 700	D	Adaptable Unit Type A	PBD Architects	20/03/20
DA 701	D	Adaptable Unit Type B	PBD Architects	05/03/20

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

2. *To modify the development consent (DA74/19) and modify condition C30 to reflect the amended application.*

### **BASIX Certificate**

- C30. 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. 809404M\_05 dated 20 April 2020 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)

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The proposed modifications satisfy the provisions of Section 4.55 (2) in that the proposed development remains substantially the same as what was approved by DA74/19. The proposed modifications will not alter the use or the form of the development as originally approved, and amenity impacts remain acceptable.

### **Reason for approval:**

The proposed modifications would not materially change the level of compliance with the relevant development standards and controls as contained in SEPP 65, North Sydney LEP 2013 and North Sydney DCP 2013. There would be no undue impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains consistent with the objectives of the R4 (High Density Residential) Zone, and the original reasons for granting consent.

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The proposed lift overrun will result in an additional exceedance of the NSLEP building height development standard however this is reasonable in the circumstances given that the over run will extend only 230mm above the approved parapet of the building, will not be visible from the street, and will result in no view loss for neighbours.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved.

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**How community views were taken into account:**

Notification of the subject application attracted three (3) submissions against the application with key concerns including increased building height, view loss resulting from the lift over run, and heritage impacts. The issues raised in the submissions have been considered in the assessment of this application where it is considered that the impacts are acceptable given the small scale of the lift overrun, its limited visibility and the lack of any material impact on views.

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The conditions attached to the original consent for Development Application No. 74/19 by endorsed date of 7 August 2019 still apply.

**ADVISINGS**

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

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
**TEAM LEADER ASSESSMENTS**