

Spectrum Property & Projects
Attention: Joe Wood
Level 6, 60 Clarence Street
SYDNEY NSW 2000

D370/19
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 370/19/3 – APPROVAL**

Development Consent Number: 370/19/3

Land to which this applies: 80 Pacific Highway, North Sydney
Lot No.: 1, DP: 1014953

Applicant: Spectrum Property & Projects

Proposal: Amendment to conditions A4 and G3 to correct minor drafting errors.

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. **370/19** and registered in Council's records as Application No. **370/19/3** relating to the land described as **80 Pacific Highway, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 14 January 2020, has been determined in the following manner: -

- *To modify Conditions A4 and G3 to alter references to NCC clauses;*

External Finishes & Materials

A4. The replacement external cladding materials must be in accordance with the NCC Standard (C1.9 Non-combustible building elements and C1.14 Ancillary elements).

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 that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Verification of Non-combustible External Materials

- G3. Prior to the issue of any Occupation Certificate, a verification statement from a qualified designer or architect (preferably the original designer), must be submitted to the Certifying Authority certifying that the external finishes and materials are in accordance with the NCC Standard (C1.9 Non-combustible building elements and C1.14 Ancillary elements), and Condition A4.

“qualified designer” means a person registered as an architect in accordance with the Architects Act 2003 cf 50(1A) EP & A Regs 2000.

(Reason: To ensure that the form of the development undertaken is in accordance with the National Construction Code)

Reason for approval:

The proposed amendment of Conditions A4 (External Finishes & Materials) and G3 (Verification of Non-combustible External Materials) is to correct a minor drafting error relating to the specification of Clauses within the NCC and would not materially change the level of compliance with any environmental planning instrument or NSLEP and NSDCP. Notification of this application was not required. Nonetheless, officers consider that there would be no impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains fully consistent with the objectives of the B3 Commercial Core Zone, and the reasons for granting consent originally.

The proposed changes were found to be acceptable in the site circumstances and it is recommended that the subject Section 4.55(1) application be approved with the modification of Conditions A4 and G3.

How community views were taken into account:

There is no requirement to advertise a Section 4.55(1) application, and no neighbour would be impacted by this minor amendment of Conditions A4 and G3.

The conditions attached to the original consent for Development Application No. 370/19 by endorsed date of 14 January 2020 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Andrew Beveridge**. 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
ROBYN PEARSON
TEAM LEADER ASSESSMENTS