

Original signed by: Robyn Pearson Dated: 3 June 2020

FPG No. 5 Pty Ltd
Level 5, 97 Pacific Highway
NORTH SYDNEY NSW 2060

D379/18
LK(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 379/18/2 – APPROVAL**

Development Consent Number: 379/18/2

Land to which this applies: 7-9A Harriette Street, Neutral Bay
Lot No.: 1, DP: 102482

Applicant: FPG No. 5 Pty Ltd

Proposal: Section 4.55 (1A) modifications to DA 379/18, which permitted the construction of a residential flat building comprising 10 apartments with basement parking for 17 cars. The proposed modifications include internal amendments and deletion of a rainwater tank.

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. **379/18** and registered in Council's records as Application No. **379/18/2** relating to the land described as **7-9A Harriette Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 June 2019, has been determined in the following manner: -

- 1. To modify the development consent (DA 379/18) and modify condition A1 to include the revised plans:*

Development in Accordance with Plans (S 4.55 Amendments)

A1. The development being carried out in accordance with the following drawings:

Drawing number	Issue/ Revision	Title	Drawn by	Dated
DA 000	F	Cover Sheet	PBD Architects	21/05/19
DA 001	B	Demolition Plan	PBD Architects	15/02/19
DA 002	D	Site Analysis Plan	PBD Architects	24/04/19

DA 100	E	Basement 2 Plan	PBD Architects	24/04/19
DA 101	E	Basement 1 Plan	PBD Architects	24/04/19
DA 102	E	Lower Ground Floor	PBD Architects	24/04/19
DA 103	D	Ground Floor	PBD Architects	24/04/19
DA 104	D	Level 1 Floor Plan	PBD Architects	24/04/19
DA 105	E	Level 2 Floor Plan	PBD Architects	03/06/19
DA 106	F	Level 3 Floor Plan	PBD Architects	03/06/19
DA 107	F	Roof Plan	PBD Architects	03/06/19
DA 200	D	Elevations - 01	PBD Architects	24/04/19
DA 201	D	Elevations - 02	PBD Architects	24/04/19
DA 202	E	Elevations - 03	PBD Architects	03/06/19
DA 300	C	Sections 01	PBD Architects	15/02/19
DA 301	E	Sections 02	PBD Architects	21/05/19
DA 302	E	Sections 03	PBD Architects	21/05/19
DA 303	E	Sections 04	PBD Architects	03/06/19
DA 304	D	Sections 05	PBD Architects	21/05/19
DA 400	D	Material Finishes	PBD Architects	24/04/19
DA 401	C	Photomontage 01	PBD Architects	24/04/19
DA 402	C	Photomontage 02	PBD Architects	24/04/19
DA01	5	Lower Ground Floor	Wyer & Co	07/06/19
DA02	5	Ground Floor	Wyer & Co	07/06/19
DA03	5	Level 1	Wyer & Co	07/06/19
DA04	5	Level 2	Wyer & Co	07/06/19
DA05	5	Level 3	Wyer & Co	07/06/19

and endorsed with Council’s approval stamp, except as modified and highlighted as such in red clouded areas on the following drawings for DA379/18/2:

Drawing number	Issue/ Revision	Title	Drawn by	Dated
DA 100	G	Basement 2 Plan	PBD Architects	22/04/20
DA 101	G	Basement 1 Plan	PBD Architects	22/04/20
DA 102	H	Lower Ground Floor	PBD Architects	22/04/20
DA 103	F	Ground Floor	PBD Architects	22/04/20
DA 104	F	Level 1 Floor Plan	PBD Architects	22/04/20
DA 105	G	Level 2 Floor Plan	PBD Architects	22/04/20
DA 200	D	Elevations - 01	PBD Architects	24/04/19
DA 201	D	Elevations - 02	PBD Architects	24/04/19
DA 202	E	Elevations - 03	PBD Architects	03/06/19

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

2. To insert a new condition no. G19 as follows:

Additional Section 7.11 Contribution

G19. Prior to the issue of any Occupation Certificate, a monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979, in accordance with the North Sydney Council Section 7.11 Contribution Plan must be paid to Council for the one additional bedroom created within Unit 2 of the development as a result of the modifications to the development (DA379/18/2). The monetary contribution payable for the additional bedroom is **\$4,083.19**.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution. A copy of the North Sydney Section 7.11 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

3. To amend Condition C29 as follows:

Stormwater Management and Disposal Design Plan – Construction Issue

C29. Prior to issue of the Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:

- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
- b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity to the existing inter-allotment drainage easement, located along the southern site boundary and ultimately towards the council drainage network under Undercliff Street.
- c) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit. Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS3500.3.2 by an appropriately qualified and practising civil engineer, shall be submitted with the application for a Construction Certificate.
- d) The installation of rainwater tank/s (if any) shall comply with BASIX and Sydney Water requirements. Any overflow from the rainwater tank/s shall be connected by gravity to the stormwater disposal system.
- e) Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception. Details demonstrating compliance are to be submitted with the Construction Certificate.

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

Reason for approval:

The proposed modifications within this application satisfy the provisions of Section 4.55 (1A) in that the proposed development remains substantially the same as what was approved by DA379/18. The proposed modifications will not materially alter the use or the form of the development as originally approved.

The proposed modifications would not change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013. There would be no new or different 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 reasons for granting consent originally.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1A) application be approved.

How community views were taken into account:

Notification of the subject application was not required under Section 3.4.2 (Modifications to Development Consents) in Council's Community Engagement Protocol adopted 2019. Nonetheless neighbour amenity has been considered in the assessment of this application where it is concluded that the modifications will not give rise to any new or different impact, and the development remains acceptable.

The conditions attached to the original consent for Development Application No. 379/18 by endorsed date of 5 June 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

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)