

Original signed by Robyn Pearson on 8/9/2020

Stuart Philip Bryson  
12 Premier Street  
NEUTRAL BAY NSW 2089

D382/18  
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 382/18/3 – APPROVAL**

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**Development Consent Number:** 382/18/3

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**Land to which this applies:** 12 Premier Street, Neutral Bay  
Lot No.: 352, DP: 579433

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**Applicant:** Stuart Philip Bryson

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**Proposal:** Section 4.55(2) Modification - Partial demolition, alterations and additions to an existing semi-detached dwelling.

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The 4.55 application was considered by the North Sydney Local Planning Panel (NSLPP) on 2 September 2020.

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. **382/18** and registered in Council's records as Application No. **382/18/3** relating to the land described as **12 Premier Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 February 2019, has been determined in the following manner: -

*1. The following conditions are to be imposed as follows:*

**Development in Accordance with Plans (S4.55 Amendments)**

A5. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications on:

Plan No	Title	Dated	Prepared	Received
S4.55 01	Lower Ground and Ground	6 July 2020	Wolski Coppin Architecture	7 July 2020
S4.55 02	Level 1 & Roof/Site Plan	6 July 2020		7 July 2020

S4.55 03	Elevations 01	6 July 2020		7 July 2020
S4.55 04	Elevations 02	6 July 2020		7 July 2020
S4.55 05	Sections 01	6 July 2020		7 July 2020
S4.55 06	Sections 02	6 July 2020		7 July 2020
FS01	Finishes Schedule	6 July 2020		7 July 2020

except as amended by the following conditions and this consent.

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

### **Amendments to Plans**

C21. The approved windows along the northern elevation of bedrooms one and two are to retain the approved size and location as shown on the northern elevation referenced in Condition A1, drawing reference **DA03A N & S Elevation A**, dated **8/01/2019**, prepared by **Wolski Coppin Architecture** and are to be modified as shown on the s4.55 modification plans as referenced in recommended condition A5, drawing reference **s4.55 03 Elevations 1**, dated **8/01/2019**, prepared by **Wolski Coppin Architecture**, only so far as to modify the sash configuration.

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 that the plans referenced in the consent address the extent of the proposed modification only)

### **Air Conditioners in Residential Premises**

C22. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
  - i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
  - ii) before 7.00am or after 10.00pm on any other day
- b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

**2. *The following conditions are to be modified as follows:***

**External Finishes & Materials**

A4. External finishes and materials must be in accordance with the submitted schedule Finishes Schedule FS01 dated 6 July 2020, prepared by Wolski Coppin Architecture and received by Council on 7 July 2020, unless otherwise modified by Council in writing.

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

**BASIX Certificate**

C19. 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. A300101\_04, dated 6 June 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)

**3. *Delete Conditions C16, C17 a) and b), and C20 a), b), c) and d).***

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**Reason for approval:**

The Panel considered the proposal was substantially the same development as approved. The proposed changes are relatively minor, improve the functionality of the dwelling and in part respond to the changing surrounding built environment. Impacts from the proposed changes were deemed to be minor and acceptable, and where they exist are reasonably managed and mitigated by the recommended and existing conditions of consent.

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

The development application was notified in accordance with Council’s Community Engagement Protocol from 17 July 2020 until 31 July 2020, however no submissions were received. Conditions were imposed on the original consent that are considered to address the potential construction impacts on the surrounding residential area.

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The conditions attached to the original consent for Development Application No. 382/18 by endorsed date of 6 February 2019 still apply.

**ADVISINGS**

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

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