

Xinvest Pty Ltd
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D175/12
RP (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION - REFUSAL**

Development Number: 175/12/5

Land to which this applies: 14 Milson Road, Cremorne Point
Lot No.: 33, DP: 4389

Applicant: Xinvest Pty Ltd

Proposal: Section 4.55(2) modifications to DA 175/12 involving alterations and additions to an existing heritage item including changes to the internal layout and existing balustrades.

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. **175/12** and registered in Council's records as Application No. **175/12/5** relating to the land described as **14 Milson Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 18 January 2013, has been refused.

Reason for refusal:

- 1. The proposal would cause a detrimental impact upon the heritage item and the Cremorne Point Conservation Area.**

Particulars:

- a. The proposal does not satisfy Clause 5.10 of North Sydney Local Environmental Plan 2013 because the proposed changes to the plans would have a detrimental impact upon the significance of the heritage item and the Cremorne Point Conservation Area generally.
- b. The proposal does not satisfy Part B Section 13 within North Sydney Development Control Plan 2013 because proposal would cause the loss of significant fabric contrary to the requirements of clause 13.5 – Heritage Items (03, 05,P1,P4,P5); section 13.6 – Conservation Areas (01, 04) also 13.9.3 – Verandahs and balconies (01,P1, P2, P5).

- c. The proposed changes to the plans would significantly change the intent of the original approval of Development Application 175/12 contrary to section 4.55(2)(a) and 4.55 (3) in the EPA Act 1979 (as amended) where Council approved Development Application No. 175/12 because it proposed conservation works to enhance the significance of the building that is likely to be eroded with the current section 4.55 application.
- d. The original application was also approved by Council because the proposed works to the heritage item to provide for modern living would not compromise the integrity of the heritage item unlike the proposed changes to the plans under the current modification application no. 175/12/5 that are likely to cause a detrimental impact upon the significance of the heritage item contrary to the requirements of section 4.55(3) of the EPA Act 1979 (as amended).

How community views were taken into account:

The proposed modifications were notified to adjoining properties and the Cremorne Point Precinct where upon Council received one submission against the installation of bronze handrails and bronze meshing behind the balustrades. Council officers agree with the comments made in the submission so this aspect of the application is not supported by Council.

Any variation to the Development Consent can only be made with the written approval of the Council. Major variations will require a new or amended Development Consent.

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.

Section 4.55 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act, 1979.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER ASSESSMENTS