

Original signed by: Luke Donovan on: 16/10/2020

Platino Properties Pty Ltd  
Level 2, Suite 11, 20 Young Street  
NEUTRAL BAY NSW 2089

D142/19  
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 142/19/3 – APPROVAL**

**Development Consent Number:** 142/19/3

**Land to which this applies:** 390-394 Military Road, Cremorne (aka 89 Parraween Street, Cremorne)  
Lot No.: A, DP: 439725

**Applicant:** Platino Properties Pty Ltd

**Proposal:** A Section 4.55 (2) Application to modify DA142/19 with regards to the amalgamation of two apartments, façade modifications and internal reconfiguration.

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. **142/19** and registered in Council's records as Application No. **142/19/3** relating to the land described as **390-394 Military Road, (aka 89 Parraween Street), Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 4 September 2019 has been determined in the following manner: -

**1. Add Condition A3 to read as follows:**

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

A3. 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 shown in colour on:

Drawing Number	Revision/Issue	Title	Drawn by	Dated
DA100	E	Floor Plans Basement and GF	PA Studio	27/08/2020
DA101	E	Floor Plans 1 <sup>st</sup> and 2 <sup>nd</sup>	PA Studio	27/08/2020
DA300	E	North and East Elevations	PA Studio	27/08/2020

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)

**2. Modify Conditions C35, C37 and G20 to read as follows:**

**Section 7.11 Contributions**

C35. 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 for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

<b>A</b>	<b>B (\$)</b>
Administration	\$1,168.89
Community Centres	\$6,635.12
Childcare Facilities	\$443.17
Library and Local Studies Acquisitions	\$1,211.29
Library Premises & Equipment	\$3,762.68
Multi-Purpose Indoor Sports Facility	\$926.74
Olympic Pool	\$3,018.35
Open Space Acquisitions	\$50,271.78
Open Space Increased Capacity	\$99,647.51
North Sydney Public Domain	-
St Leonards Public Domain Improvements	-
Public Domain Improvements	\$1,586.44
Traffic Improvements	\$4,945.91
<b>Total</b>	<b>\$173,617.88</b>

**The difference in the contribution between the above figure and that previously paid MUST BE paid prior issue of any modified Construction Certificate.**

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](http://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)

**BASIX Certificate**

C37. 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. 1016909M\_3, dated 2 September 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)

### **Allocation of Spaces**

G20. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

8 Residential  
2 Residential - Accessible  
1 Retail  
**11 Total**

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development. In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

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### **Reason for approval:**

The proposed modification has been assessed against Sections 4.55(2) and 4.15 of the Environmental Planning and Assessment Act 1979.

The proposed modification will ensure a high level of amenity is provided to the consolidated apartment on level 2 (apartment 201), noting it is north facing, 236m<sup>2</sup> in area with 28m<sup>2</sup> of private open space. The proposed modification will contribute to the apartment mix within the building.

The proposed modification seeks to reduce the number of parking spaces from 12 to 11 spaces. A total of 11 car parking spaces is acceptable given the location of the development on Military Road.

The minor changes to the northern façade of the building will not materially alter its design or impact the amenity of surrounding properties.

On review, the media rooms within the development are considered capable of use as bedrooms, the total contribution under this application, noting the change in apartment mix, would be higher than that imposed under the original consent. It is therefore considered appropriate to modify Condition C35 to require the additional contribution.

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Consequently, the Section 4.55(2) application is recommended for **approval**, subject to modified conditions of consent.

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

The S4.55 application was notified in accordance with the North Sydney Community Engagement Protocol between 18 September and 2 October 2020. No submissions were received.

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The conditions attached to the original consent for Development Application No. 142/19 by endorsed date of 4 September 2019 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. 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  
LUKE DONOVAN  
**A/TEAM LEADER ASSESSMENTS**