

Original signed by: **Robyn Pearson** on: **14/10/2020**

Ingham Planning Pty Ltd
Attention: Brett Brown
PO Box 251
ARTARMON NSW 1570

D404/17
MS3 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.56 MODIFICATION 404/17/4 – APPROVAL

Development Consent Number: **404/17/4**

Land to which this applies: 1 Lower Bent Street, Neutral Bay
Lot No.: 1, DP: 656458

Applicant: Ingham Planning Pty Ltd

Proposal: Section 4.56 modification to DA404/17 relating to the construction of an additional balcony, changes to courtyard areas and landscaping.

Pursuant to Section 4.56 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **404/17** and registered in Council's records as Application No. **404/17/4** relating to the land described as **1 Lower Bent Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 23 August 2018, has been determined in the following manner: -

- 1. To further modify the previously modified development consent (D404/17/2) and modify condition A1 to include the revised plans:***

Development in Accordance with Plans (S 4.56 Amendments)

A1. The development being carried out in accordance with the following drawings for DA 404/17:

Plan No.	Date	Title	Drawn by
S34 01 Rev C	26/7/18	Site Plan	Connor + Solomon Architects
S34 02 Rev C	26/7/18	Roof Plan	Connor + Solomon Architects
S34 03 Rev C	26/7/18	Lower Ground Floor Plan	Connor + Solomon Architects
S34 04 Rev C	26/7/18	Ground Floor Plan	Connor + Solomon Architects

S34 05 Rev C	26/7/18	First Floor Plan	Connor + Solomon Architects
S34 06 Rev C	26/7/18	Second Floor Plan	Connor + Solomon Architects
S34 07 Rev C	26/7/18	Eastern Elevation	Connor + Solomon Architects
S34 08 Rev C	26/7/18	Northern Elevation	Connor + Solomon Architects
S34 09 Rev C	26/7/18	Western Elevation	Connor + Solomon Architects
S34 10 Rev C	26/7/18	Southern Elevation	Connor + Solomon Architects
S34 11 Rev C	26/7/18	Section A-A	Connor + Solomon Architects
S34 12 Rev C	26/7/18	Section B-B	Connor + Solomon Architects
S34 13 Rev C	26/7/18	Section C-C	Connor + Solomon Architects
S34 14 Rev C	26/7/18	Section D-D	Connor + Solomon Architects
S34 26	10/7/18	External Finishes Schedule	Connor + Solomon Architects
S34 27	25/7/18	Section Detail of Window View Shelf O1 (W18)	Connor + Solomon Architects
S34 28	25/7/18	Section Detail of Window View Shelf O2 (W25)	Connor + Solomon Architects
L000 Rev B	25/7/18	Cover Sheet and Site Plan	Habit8
L001 Rev B	25/7/18	Landscape Plan 01	Habit8
L002 Rev B	25/7/18	Landscape Plan 02	Habit8
L003 Rev B	25/7/18	Landscape Plan 03	Habit8
18680_DA_C100	Aug 2018	Overall Site Plan	Henry&hymas
18680_DA_C101	Aug 2019	Stormwater Network Plan	Henry&hymas
CA1680_DA_C200	Aug 2018	Stormwater Miscellaneous Details & Pit Lid Schedule	Henry&hymas
CA1680_DA_C201	Aug 2018	Stormwater Longitudinal Sections	Henry&hymas
CA1680_DA_C210	Aug 2018	OSD Tank Plan, Section and Details	Henry&hymas
CA1680_DA_C250	Aug 2018	Stormwater Catchment Plan	Henry&hymas

and endorsed with Council's approval stamp, except as modified and clouded as such on the following drawings for DA404/17/2:

Drawing No.	Issue/Revision	Title	Dated	Drawn by
DA000	A	Cover Sheet	15/03/2019	PBD Architects
DA001	A	Project Summary	15/03/2019	PBD Architects
DA002	A	Site Analysis Plan	15/03/2019	PBD Architects
DA003	A	Demolition Plan	15/03/2019	PBD Architects
DA101	B	Lower Ground Floor Plan	29/05/2019	PBD Architects
DA102	B	Ground Floor Plan	29/05/2019	PBD Architects
DA103	B	Level 1 Floor Plan	29/05/2019	PBD Architects
DA104	B	Level 2 Floor Plan	29/05/2019	PBD Architects
DA105	B	Roof Plan	29/05/2019	PBD Architects
DA201	B	North Elevation	29/05/2019	PBD Architects
DA202	B	South Elevation	29/05/2019	PBD Architects

DA203	B	East Elevation	29/05/2019	PBD Architects
DA204	B	West Elevation	02/73/2019	PBD Architects
DA301	A	Section AA	15/03/2019	PBD Architects
DA302	A	Section BB	15/03/2019	PBD Architects
DA303	A	Section CC	15/03/2019	PBD Architects
DA304	B	Section DD	29/05/2019	PBD Architects
DA305	B	Section EE	29/05/2019	PBD Architects
DA306	A	Section FF	15/03/2019	PBD Architects
DA401	A	Material Schedule East	15/03/2019	PBD Architects
DA402	A	Material Schedule West	15/03/2019	PBD Architects
DA403	A	Material Schedule North	15/03/2019	PBD Architects
DA404	A	Material Schedule South	15/03/2019	PBD Architects
L000	C	Cover Sheet and Site Plan	13/03/2019	Habit8
L001	C	Ground Level	13/03/2019	Habit8
L002	C	Lower Ground Level	13/03/2019	Habit8
L003	C	First Floor	13/03/2019	Habit8
L004	C	Planting Schedule	13/03/2019	Habit8

and further modified and clouded as such on the following drawings for DA404/17/3:

Drawing No.	Issue/Revision	Title	Dated	Drawn by
DA103	C	Level 1 Floor Plan	29/06/2020	PBD Architects
DA104	C	Level 2 Floor Plan	29/06/2020	PBD Architects
DA201	C	North Elevation	29/06/2020	PBD Architects
DA202	C	South Elevation	29/06/2020	PBD Architects
DA203	C	East Elevation	29/06/2020	PBD Architects
DA204	C	West Elevation	29/06/2020	PBD Architects

and further modified and clouded as such on the following drawings for DA404/17/4:

Drawing No.	Issue/Revision	Title	Dated	Drawn by
DA004	A	Site Plan	26/08/2020	PBD Architects
DA101	D	Lower Ground Floor Plan	07/08/2020	PBD Architects
DA102	C	Ground Floor Plan	07/08/2020	PBD Architects
DA104	D	Level 2 Floor Plan	07/08/2020	PBD Architects
DA202	E	South Elevation	07/08/2020	PBD Architects
DA203	D	East Elevation	07/08/2020	PBD Architects
DA204	D	West Elevation	07/08/2020	PBD Architects

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

Reason for approval:

The proposed modifications to provide an additional balcony to townhouse 2, realign the rear courtyard areas of townhouses 3 and 4, and change external ground materials, increasing landscaping, satisfies the provisions of Section 4.56 in that the proposed development is substantially the same as that which was approved by the Court under DA 404/17 and the proposed modifications will not alter the use or the form of the development as originally approved.

The proposed modifications would not materially 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 undue 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 R3 Medium Density Residential zone, and the reasons for the original granting of development consent by the Court.

One submission was received which raised concerns regarding potential privacy impacts as a result of the additional balcony however the proposed balcony is unlikely to have any material adverse impact given its limited size, location accessed from a bedroom, privacy screening and physical separation to the adjoining property.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.56 application be approved.

How community views were taken into account:

The development application was notified in accordance with Council's Community Engagement Protocol from 11 September 2020 until 25 September 2020 and one submission was received. The proposed modification is not considered to have any unreasonable impact on surrounding properties and conditions imposed on the original consent are considered to minimise the potential construction impacts to the surrounding residential area.

The conditions attached to the original consent for Development Application No. 404/17 by endorsed date of 23 August 2018 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 4.56 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 4.56 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