

Original signed by Luke Donovan on 20/10/2020

Nick Hibbard Architect  
PO Box 46  
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D422/18  
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 422/18/2 – APPROVAL**

**Development Consent Number:** 422/18/2

**Land to which this applies:** 106 Bank Street, North Sydney  
Lot No.: 1, DP: 730270

**Applicant:** Nick Hibbard Architect

**Proposal:** Section 4.55(2) application to modify DA422/18 with regard to new window, extension to bedroom 4, reduction of upper level additions, window deletion, deletion of privacy screen to upper level

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. **422/18** and registered in Council's records as Application No. **422/18/2** relating to the land described as **106 Bank Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 9 April 2019, has been determined in the following manner: -

*1. Add Condition A5 to read 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 shown in colour on:

Drawing Number	Issue/Revision	Title	Drawn by	Dated
10	J	Proposed basement, ground plans	Nick hibberd architect	7/09/20
11	K	Proposed upper and roof plans	Nick hibberd architect	7/09/20

20	K	Section sheet 1	Nick hibberd architect	7/09/20
21	L	Sections sheet 2	Nick hibberd architect	7/09/20
23	L	Section sheet 3	Nick hibberd architect	7/09/20

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 C12 to read as follows:***

**Privacy**

C12. The following privacy devices are to be provided:

- a) The privacy screens nominated on the plans to be attached to the ground floor southern lounge room windows must be solid and lack transparency.
- b) A privacy screen to a minimum height of 1.6m above floor level must be attached to the ground floor southern kitchen window (WD/3). The privacy screen must be solid and lack transparency.
- d) The timber framed canopy around the perimeter of the ground floor southern dining room window (WD/4) must extend out a minimum depth of 300mm from the existing masonry wall.

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 an adequate level of privacy is provided to adjoining property located at No. 102 and 104 Bank Street, North Sydney)

**BASIX Certificate**

C14. 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. A332933\_\_02, dated 15 October 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)

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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 removal of the privacy screens from upper level are considered acceptable as the upper level addition has been setback an additional 1550mm from the southern boundary, ensuring no unreasonable privacy impacts for the adjoining properties to the south.

The proposed modification reduces the size of the deck in the south western corner at upper ground floor level, located off bedroom 1. The remainder of the area is notated on the plan as “*new timber framed roof with membrane roofing*”. What appears to be an outdoor table and chair is however indicated on the roof plan. To ensure abundant clarity, Condition I1 was imposed on the consent. To further reinforce Condition I1 it is recommended that these plans be notated to indicate that this extent of roof area is to be non-trafficable and not used as a roof deck.

The minor extension to bedroom 4 at upper floor level will not materially increase the bulk or scale of the dwelling or reduce amenity for surrounding properties.

The addition of a northern window will not impact privacy for the adjoining properties to the north, given the window is at ground level and the dwelling is significantly lower than the dwellings on the properties to the north of the site.

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 25 September and 9 October 2020. One (1) submission was received against the application. The issue raised in the submission has been addressed in the delegated report.

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The conditions attached to the original consent for Development Application No. 422/18 by endorsed date of 9 April 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**

\_\_\_\_\_  
DATE

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Signature on behalf of consent authority  
**LUKE DONOVAN**  
**ACTING TEAM LEADER ASSESSMENTS**