

Original signed by **George Youhanna** on **25/05/2021**

Fortis Development Group
33-39 Riley Street
WOOLLOOMOOLOO NSW 2011

D70/20
GJY (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 70/20/2 – APPROVAL**

Development Consent Number: 70/20/2

Land to which this applies: 5 Colindia Avenue, Neutral Bay
Lot No.: 0, SP: 8695

Applicant: Fortis Development Group

Proposal: Modification of consent for demolition of existing residential flat building and construction of a residential flat building with basement parking.

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. **70/20** and registered in Council's records as Application No. **70/20/2** relating to the land described as **5 Colindia Avenue, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 4 November 2020, has been determined in the following manner: -

1. The following conditions are to be amended as follows:

Development in Accordance with Plans/documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Title	Drawn by	Dated
DA101	H	Basement 2 Plan	PBD Architects	09/2/21
DA102	H	Basement 1 Plan	PBD Architects	09/2/21
DA103	G	Ground Floor Plan	PBD Architects	09/2/21
DA104	F	Level 1 Plan	PBD Architects	09/2/21
DA105	F	Level 2 Plan	PBD Architects	09/2/21
DA106	E	Level 3 Plan	PBD Architects	09/2/21

DA107	E	Roof Plan	PBD Architects	20/4/21
DA201	G	Elevations North and East	PBD Architects	20/4/21
DA202	G	Elevations South and West	PBD Architects	20/4/21
DA301	F	Section A	PBD Architects	20/4/21
DA302	C	Section B and C	PBD Architects	11/26/20
DA304	C	Section F, G and H	PBD Architects	21/10/20
DA400	B	Material Schedule	PBD Architects	09/2/21
DA00	4	Site Plan	Wyer and Co	26/10/20
DA01	4	Ground Floor	Wyer and Co	26/10/20
DA02	4	Level 1	Wyer and Co	26/10/20
DA03	4	Level 2	Wyer and Co	26/10/20
DA04	4	Level 3	Wyer and Co	26/10/20
DA05	4	Landscape Sections	Wyer and Co	26/10/20

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

External Finishes & Materials

A4. External finishes and materials must be in accordance with the submitted schedule dated 9/2/21, prepared by PBD Architects 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)

Location of Plant

C28. All plant and equipment, except where approved under modification application DA70/20/2, is to be located within the basement of the building and is not to be located on balconies or the roof. 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Adaptable Housing

C38. Proposed apartment 201 is to be designed with accessible features for disabled persons, and must incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps. These features are to be designed generally in accordance with the relevant Australian Standard 4299 - 1995. 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 equity of access and availability of accommodation in the future for an ageing population)

BASIX Certificate

C41. 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. 1085615M_02 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)

Reason for approval:

The proposal has been assessed under the relevant Environmental Planning Instruments and policies including NSLEP 2013, SEPP 65 and the Apartment Design Guide, and NSDCP 2013 and general found to be satisfactory, subject to conditions of consent.

The proposal is a permissible form of development in the R4 zone.

The proposed modified development is a satisfactory design response to the site and the site constraints.

No submissions were received.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate conditions.

How community views were taken into account:

No submissions were received. The proposed modifications are minor and have an acceptable impact on surrounding dwellings.

The conditions attached to the original consent for Development Application No. 70/20 by endorsed date of 4 November 2020 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

Signature on behalf of consent authority
**GEORGE YOUHANNA
EXECUTIVE PLANNER**