

Original signed by: Robyn Pearson Dated: 9 February 2022

Paige Matthews
Willowtree Planning Pty Ltd
7/100 Walker Street
NORTH SYDNEY NSW 2060

D237/20
RT (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 237/20/2 - APPROVAL

Development Consent Number: 237/20/2

Land to which this applies: 30-34 Grosvenor Street, Neutral Bay
Lot No.: A, DP: 341243

Applicant: Paige Matthews, Willowtree Planning Pty Ltd

Proposal: To modify an approved four (4) storey residential flat building including changes to floor levels, internal layout changes within the basement levels, an additional basement level and an addition to the lift overrun.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 2 February 2022.

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. **237/20** and registered in Council's records as Application No. **237/20/2** relating to the land described as **30-34 Grosvenor Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 March 2021, has been determined in the following manner: -

1. To modify the conditions of (D237/20) in particular conditions A1, C1, G22 and I1 to read as follows:

Development in Accordance with Plans (S4.55 Amendments)

- A1. The development being carried out in accordance with the following drawings:

Drawing No.	Date	Drawn by	Received
A0011 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0098 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0099 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0100 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0101 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0102 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0103 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0104 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0200 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0201 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021
A0300 Rev B	11/12/2020	Koichi Takada Architects	14 January 2021

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D237/20/2:

Plan Nos.	Description of works	Prepared by	Dated
A0097 Rev B	Basement 02 Floor Plan	Team 2 Architects	29 November 2021
A0098 Rev D	Basement 01 Floor Plan	Team 2 Architects	3 September 2021
A0099 Rev D	Lower Ground Floor Plan	Team 2 Architects	3 September 2021
A0100 Rev D	Ground Floor Plan	Team 2 Architects	3 September 2021
A0101 Rev D	Level 01 Floor Plan	Team 2 Architects	3 September 2021
A0102 Rev D	Level 02 Floor Plan	Team 2 Architects	3 September 2021
A0103 Rev D	Level 03 Floor Plan	Team 2 Architects	3 September 2021
A0104 Rev D	Level 04 Ground floor Plan	Team 2 Architects	3 September 2021
A0105 Rev D	Roof Plan	Team 2 Architects	3 September 2021
A0200 Rev D	Elevations 01	Team 2 Architects	3 September 2021
A0201 Rev D	Elevations 02	Team 2 Architects	3 September 2021
A0300 Rev D	Section 01	Team 2 Architects	3 September 2021

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

Geotechnical Report

- C1. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared, with reference to the Geotechnical desktop report study, dated August 2020 and the Addendum to this report dated 1 September 2021, both prepared by Douglas Partners, which addresses at a minimum (but is not limited to) the following:-

- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) The existing groundwater levels in relation to the basement structure, where influenced;
- e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and
- f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;

- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimized or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) An adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Covenant and Restriction (Use of Communal Areas)

G22 An Instrument pursuant to Sections 88B and 88E of the *Conveyancing Act* 1919 and one copy must be submitted to Council in registrable form, providing for:

- 1) a restriction as to user and positive covenant in favour of North Sydney Council burdening Nos. 30-34 Grosvenor Street, Neutral Bay restricting the use of the communal areas for residents and guest to be maintained as such and shall only be varied with approval of Council; and
- 2) North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument.

Upon Council being satisfied as to the terms of the Instrument, North Sydney Council's official seal will be affixed to these documents, prior to submission to the Land & Property Information Office for registration

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier.

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of an Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: Compliance and to maintain communal use of the communal area)

Communal Areas

11. The roof terrace communal area on Level 03, the communal facilities on Level 03 and the community room on basement level 02 must be used for communal purposes only by the residents and their guests of the approved development.

The operating hours of the outdoor communal facilities within the proposed development shall be as follows:

Sunday to Thursday: 7.00am to 10.00pm
Friday to Saturday: 7.00am to 11.00pm

A sign showing the above operating hours must be installed at a highly visible location within the affected communal area.

The above operating hours must be incorporated in the by-law of any strata plan for the approved development.

(Reason: To restrict the use of the facilities and amenity protection.)

2. *To insert new conditions A3 and I9 to read as follows:*

Terms of Consent (D398/19/2)

A7. Approval is granted for the following modifications only:

- (a) The addition of a new basement level 02 at RL69.65 matching the footprint of the basement level 01 above to provide five (5) parking spaces, storage areas, a plant room, a bulk waste room and a community room;
- (b) Modifications to property boundary setbacks for the basement level 01 to provide a setback of 3.237m to the northern property boundary and 2.137m to the southern (Grosvenor Street) boundary;
- (c) Modifications to the internal layout of parking areas on basement level 01 and the lower ground level to provide ten (10) parking spaces (including two (2) accessible parking spaces and two (2) visitors spaces), two (2) motorcycle parking spaces, bicycle parking, a plant room, a sprinkler & hydrant pump room and a car lift connecting all parking levels. The installation of roller shutters in front certain parking spaces and storage areas on basement Levels 01 and 02;

- (d) Modifications to the building facades including the widening of some external walls and the addition of solid upstands to planters along the perimeter of the building;
- (e) An increase in the height of the lift overrun from RL92.55 to RL92.85;
- (f) Modifications to the floor levels:

Level	Approved	Proposed
Basement 02	N/A	RL69.65
Basement 01	RL73.10	RL72.50
Lower Ground	RL75.90	RL75.65
Ground	RL79.00	RL78.85
Level 01	RL82.10	RL82.00
Level 02	RL85.20	RL85.15
Level 03	RL88.30	RL88.30
Roof	RL91.40	RL91.40

- (g) Increase in the GFA of the development from 1,223sqm to 1,340sqm resulting from the addition of a basement level and adjustments to unit size as follows:

Level/ Nos. of Units & Type	Approved	Proposed
Lower Ground: 1 x 2B + Study	102sqm	110sqm
Ground: 1 x 1B 2 x 3B	66sqm 132sqm & 140sqm	66sqm 131sqm & 140sqm
Level 01: 2 x 3B	120sqm & 158sqm	119sqm & 158sqm
Level 02: 2 x 3B	148sqm & 158sqm	146sqm & 158sqm
Level 03	158sqm	159sqm

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear.)

Use of Underground Facilities

- 19. The underground parking and storage facilities on the lower ground level, basement levels 01 and 02 must be used for the nominated purposes as shown on the approved plans and only by the residents and their guests of the approved development.

Any changes to the allocation of the use and design of these facilities would require further approval from Council.

The restrictions on the use of the underground parking and storage facilities must be incorporated in the by-law of any strata plan for the approved development.

(Reason: To ensure compliance.)

Reason for approval:

The Panel considers that the modifications, including an additional lift overrun and reduction in the basement side setbacks will not have any material impact on the adjoining properties. Furthermore, the Panel is satisfied that appropriate landscaping can be provided in the 263mm reduced setback to Grosvenor Street.

How community views were taken into account:

The owners of adjoining properties and the Brightmore Precinct were notified between 24 September and 10 October 2021. The notification has attracted no submissions.

The conditions attached to the original consent for Development Application No. 237/20 by endorsed date of 3 March 2021 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robin Tse**. 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
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)