

Original signed by: Mr Kim Rothe

Dated:...9/02/2022

D&T Investments (NSW) Pty Ltd
ATF The Gongolidis Family Trust C/O
Suite 110, Level 1, 13a Montgomery Street
KOGARAH NSW 2217

D473/15
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 473/15/2 - APPROVAL**

Development Consent Number: 473/15/2

Land to which this applies: 51 Alexander Street, Crows Nest
Lot No.: 7:, Sec: 16, DP: 1265

Applicant: Mr Dimitrios Gongolidis

Proposal: Section 4.55(2) modification to DA 473/15 to modify mixed use development to provide for alterations to lift overrun, rooftop communal space, alteration to ground floor commercial, reduction to total residential apartments, deletion of lowest basement level and changes to materials and finishes.

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. **473/15** and registered in Council's records as Application No. **473/15/2** relating to the land described as **51 Alexander Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 July 2016, has been determined in the following manner: -

1. To insert Conditions A4, as follows:-

Development in Accordance with Plans (S.4.55 Modifications)

- A1. 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:

Plan No.	Issue	Title	Dated	Drawn by	Received
DA100	A	Basement + Lower Ground	28/06/2021	GCCV PTY LTD	29/06/2021
DA101	A	Ground Level	28/06/2021	GCCV PTY LTD	29/06/2021
DA102	A	Residential Level 1	28/06/2021	GCCV PTY LTD	29/06/2021
DA103	B	Residential Level 2	10/11/2021	GCCV PTY LTD	22/11/2021
DA104	C	Roof Plan	12/11/2021	GCCV PTY LTD	22/11/2021
DA105	B	Top of building Plan (Lift Overrun)	10/11/2021	GCCV PTY LTD	22/11/2021
DA200	B	Elevations – Material Selection	12/11/2021	GCCV PTY LTD	22/11/2021
DA201	B	Elevations – Material Selection	12/11/2021	GCCV PTY LTD	22/11/2021
DA202	B	Elevation – east and west	12/11/2021	GCCV PTY LTD	22/11/2021
DA203	B	Elevation – north	12/11/2021	GCCV PTY LTD	22/11/2021
DA204	B	Elevation – south	12/11/2021	GCCV PTY LTD	22/11/2021
DA300	C	Section - AA	12/11/2021	GCCV PTY LTD	22/11/2021
DA301	B	Section – BB & CC	12/11/2021	GCCV PTY LTD	22/11/2021
15-3121 LO1	D	Landscape Plan	17/11/2021	Zenith Landscape Design	22/11/2021

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. To modify Conditions C37, C40 as follows:-

Section 7.11 Development Contributions

C37 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's 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.

S7.11 Contributions

Open space and recreation facilities	\$54,088.73
Public domain	\$17,931.84
Active transport	\$1,023.65
Community facilities	\$10,863.93
Plan administration and management	\$1,250.83
TOTAL	\$85,158.99

Indexation

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of payment

The contribution must be paid to Council prior to issue of any Construction Certificate.

Deferred payments will not be accepted.

A copy of the North Sydney 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

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

BASIX Certificate

C40. 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. **(680696M_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 Panel is satisfied that the additional lift overrun of 0.65m is centrally located and will not create any material additional overshadowing for the properties to the east. Council's minimum of 3 hours sunlight to the private open space of adjoining properties is more than achieved. The Panel considers that the modification should be approved in the circumstances.

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

The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2022/2_February_2022)

The conditions attached to the original consent for Development Application No. 473/15 by endorsed date of 6 July 2016 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Kim Rothe**. 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

9 February 2022

DATE

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)