

Platform Project Services
5/95 Pitt Street
SYDNEY NSW 2000

D232/20
MS3 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 232/20/2 - APPROVAL

Development Consent Number: 232/2020/2

Land to which this applies: 1-11 Rodborough Avenue, Crows Nest
Lot No.: X, DP: 398325

Applicant: Platform Project Services

Proposal: Section 4.55(1A) modification relating to the demolition of the existing buildings and the construction a 4-storey residential flat building with basement parking and associated landscaping including strata subdivision.

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. **232/20** and registered in Council's records as Application No. **232/20/2** relating to the land described as **1-11 Rodborough Avenue, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 July 2021, has been determined in the following manner:

1. Impose condition A3 Section 4.55 modification plans:

Development in Accordance with Plans (S4.55 Amendments)

- 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	Prepared	Received
S455-01-A0012	D	Demolition Plan	23/03/2021	Koichi Takada Architects	21/10/2021
S455-01-A0013	G	Site Analysis	24/09/2021		21/10/2021

S455-01-A0014	G	Site Plan	24/09/2021		21/10/2021
S455-01-A0098	L	Basement 01 Floor Plan	24/09/2021		21/10/2021
S455-01-A0099	Q	Lower Ground Floor Plan	24/09/2021		21/10/2021
S455-01-A0100	S	Ground Floor Plan	24/09/2021		21/10/2021
S455-01-A0101	K	Level 1 Plan	24/09/2021		21/10/2021
S455-01-A0102	K	Level 2 Plan	24/09/2021		21/10/2021
S455-01-A0103	S	Level 3 Plan	24/09/2021		21/10/2021
S455-01-A0104	M	Level 4 Roof Plan	24/09/2021		21/10/2021
S455-01-A0200	J	East & West Elevations	24/09/2021		21/10/2021
S455-01-A0201	K	North & South Elevations	24/09/2021		21/10/2021
S455-01-A0300	H	Sections 01	24/09/2021		21/10/2021
S455-01-A0301	G	Sections 02	24/09/2021		21/10/2021
S455-01-A0494	B	Rear wall study	24/09/2021		21/10/2021
S455-01-A0496	B	Building footprint	24/09/2021		21/10/2021
S455-01-A0500	E	Material Sample Board	24/09/2021		21/10/2021
101	F	Landscape Plan - Gr Floor	11/10/2021	Site Image Landscape Architects	21/10/2021
102	E	Landscape Plan - L 1 and 2	11/10/2021		21/10/2021
103	F	Landscape Plan - L 3	11/10/2021		21/10/2021
501	E	Landscape Details and Plant Schedule	11/10/2021		21/10/2021

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. **Impose condition C54 Storage Cages:**

- C54. A fixed bollard is to be installed at the northern edge of the residential storage areas attached to spaces identified as R13 through R19 (inclusive) on Basement Floor Plan S455_01-A0098 L dated 24 September 2021. The bollards are to prevent the use of the storage cages for vehicle parking. The bollards must not be capable of removal by future owners and should be suitably integrated within the cages so as not to impede access for the storage of household items. The number of vehicles parked within the basement must not exceed the rates in condition I6 *Allocation of Spaces* at any time.

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 that a reasonable level of storage is provided for each apartment and to ensure that additional vehicles are not parked within the development which would exceed approved residential parking rates and have unknown implications to traffic generation associated with the development)

3. Amended the following conditions:

Accessible parking spaces to be provided

- C23. A total of **7** accessible parking spaces (6 x residential and 1 x visitor) shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation)

Section 7.11 Contributions

- C50. 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 Contributions 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.

Applicable contribution type		
s7.11 contribution	A	B
(Net population increase)	Open space and recreation facilities:	\$213,922.55
	Public domain:	\$119,084.35
	Active transport:	\$6,796.87
	Community facilities:	\$42,967.35
	Plan administration and management:	\$5,723.68
	Total:	\$388,494.79

The contribution MUST BE paid prior issue of any Construction Certificate.

The above amount, will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Contributions 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 retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

BASIX Certificate

- C52. 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. **1121048M_05**, dated **19 October 2021** 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)

Allocation of Spaces

- G28. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

30	Residential
6	Residential - Visitors
6	Accessible (residents)
1	Accessible (visitor)

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Allocation of Spaces

- I6. The allocation of Carparking spaces within the development must be maintained at all times in accordance with the terms of this consent. The allocation of spaces must be maintained in accordance with the following table:

30	Residential
6	Residential - Visitors
6	Accessible (residents)
1	Accessible (visitor)

Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Allocation of Parking and Visitor Parking

- K5. Car-parking provided must only be used in conjunction with the units and tenancies contained within the development. Any carparking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

The allocation of spaces must be maintained in accordance with the following table:

30	Residential
6	Residential - Visitors
6	Accessible (residents)
1	Accessible (visitor)

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Carparking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any carparking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Reason for Approval:

The modification application meets the requirements of section 4.55(1A) and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1) of the Act, which have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of SEPP 65 and NSLEP 2013 and is generally in accordance with the objectives of the ADG and NSDCP 2013.

The proposed modifications are considered substantially the same development and of minimal environmental impact. The proposed modification have arisen through the detailed design documentation requirements for the Construction Certificate. Each modification is minor in nature and is assessed to be of minimal environmental impact. The cumulative impact of the minor modifications is also considered minor. The proposed modifications would not adversely impact the amenity of the residential flat building or the surrounding properties.

The proposed modification is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The application was notified in accordance with Council's Community Engagement Protocol from 11 November 2021 until 26 November 2021. Two submissions were received which have been addressed in the assessment report. It is considered that existing conditions of consent would address the ongoing concerns raised by submitters.

The conditions attached to the original consent for Development Application No. 232/20 by endorsed date of 7 July 2021 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 4.55 of the Environmental Planning and 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 and Assessment Act.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER ASSESSMENTS