



Rodborough Development Pty Ltd
5/95 Pitt Street
SYDNEY NSW 2000

D232/20
IL2 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 232/20/6 - APPROVAL**

Development Consent Number: 232/20

Land to which this applies: 5 Rodborough Avenue, Crows Nest
Lot No.: 1, DP: 1275996

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. **232/20/6** relating to the land described as **5 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:

A. Impose Condition A6 Section 4.55 modification plans:

- A6. 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
A0100	Y	Ground Floor Plan	19/10/2023	Koichi Takada Architects	19/10/2023
A0475	A	Booster Arrangement	19/10/2023		19/10/2023
A0200	E	Elevations 01	19/10/2023		19/10/2023
A0201	T	Elevations 02	9/06/2023		14/06/2023
SK230609-1	B	Palisade Flood Fence Details	13/06/2023		14/06/2023

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)

B. Impose Condition C55 Fencing within Overland Flow Path:

The fencing located within the southern side setback of the approved building is to be constructed in accordance with the design details in SK-230609-1, dated 13 June 2023, prepared by Koichi Takada Architects.

The Principal Certifier 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 structures located within the overland flow path do not impede the overland flow path.)

C. Impose Condition E31 Works within the Tree Protection Zone:

All works within the TPZ of T18 shall be carried out in accordance with AS4970, using sensitive construction techniques and under direct supervision of the project arborist. Excavation within the TPZ shall be carried out by hand/non-invasive means, in order to avoid cutting any roots greater than 40mm in diameter. Any such large structural roots, if encountered, shall be either excavated below or around in order to avoid cutting.

(Reason: To ensure the protection of significant trees.)

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 modifications are permissible, meet the development standards and relevant provisions of SEPP 65 and NSLEP 2013 and are generally in accordance with the objectives of the ADG and NSDCP 2013.

Reasons for Approval:

The proposed modifications are considered substantially the same development and of minimal environmental impact. The proposed modification seeks to mitigate potential flooding issues and retains an acceptable streetscape presentation despite the proposed relocation of site facilities and structures within the front setback area of the site.

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 21 April 2023 until 5 May 2023. No submissions were received at Council. Nevertheless, the potential impacts to the surrounding properties were considered.

ADVISINGS

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

7 November 2023

DATE



Signature on behalf of consent authority
ISOBELLA LUCIC
TEAM LEADER (ASSESSMENTS)