

Original signed by Luke Donovan on 20/2/2019

Date determined: 19/2/2019

Date operates: 20/2/2019

Date lapses: 20/2/2024

Development Consent No. 163/17

Section 4.55 Application

Applicant's Name

Marlborough Nominees, C/- COSO Architecture

Land to which this applies

211 Military Road, Cremorne

Lot No.: 0, SP: 30908

Proposal

A Section 4.55 (2) Application to modify DA163/17 with regard to various internal changes, cantilevered bay window projection and the provision of east facing roofed balconies.

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. **163/17** and registered in Council's records as Application No. **163/17/2** relating to the land described as **211 Military Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 December 2017, has been determined in the following manner:

Modify Conditions A1, A3, C33, C35 and C37 to read 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 and this consent.

Dwg No.	Revision	Date	Title	Drawn by	Received
S4.55 01	-	8/11/18	Site Plan	COSO Architecture	12/11/18
S4.55 02	-	8/11/18	Lower Basement Plan	COSO Architecture	12/11/18
S4.55 03	-	8/11/18	Basement Plan	COSO Architecture	12/11/18
S4.55 04	-	8/11/18	Ground Floor Plan	COSO Architecture	12/11/18
S4.55 05	-	8/11/18	First Floor Plan	COSO Architecture	12/11/18
S4.55 06	-	8/11/18	Second Floor Plan	COSO Architecture	12/11/18

S4.55 07	-	8/11/18	Third Floor Plan	COSO Architecture	12/11/18
S4.55 08	-	8/11/18	Roof Plan	COSO Architecture	12/11/18
S4.55 09	-	8/11/18	Front Elevation – North Facing	COSO Architecture	12/11/18
S4.55 10	-	8/11/18	Side Elevation – West Facing	COSO Architecture	12/11/18
S4.55 11	-	8/11/18	Side Elevation – East Facing	COSO Architecture	12/11/18
S4.55 12	-	8/11/18	Courtyard Elevation – North Facing	COSO Architecture	12/11/18
S4.55 13	-	8/11/18	Section BB	COSO Architecture	12/11/18

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

External Finishes & Materials

A3. External finishes and materials must be in accordance with the submitted drawing number DA18, Revision A, drawn by Connor + Soloman, dated September 2017 and the privacy screen details, 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)

Privacy

C33. The following privacy devices are to be provided:

- a. A privacy screen must be attached the eastern side of the balconies to Units 12 and 18;
- b. The southern windows to the dining room of Units 12 and 18 must have a minimum sill height of 1.6m above floor level or alternatively be fitted with obscure glazing.
- c. A 1m deep planter box must be installed on the western side of the southern balcony to Unit 19.
- d. The northernmost panel of the eastern balcony for apartments 8 and 14 to be fixed in place.
- e. The southernmost panel of the eastern balcony for apartments 10 and 16 to be fixed in place.

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 an adequate level of privacy is provided to adjoining property located at No 1-7 Hampden Avenue and No. 209 Military Road)

Section 7.11 Contributions

- C35. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979 (as amended), in accordance with the North Sydney Council Section 7.11 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.

Administration	\$1,964.50
Community Centres	\$8,918.08
Childcare Facilities	\$3,402.57
Library and Local Studies Acquisitions	\$1,663.93
Library Premises and Equipment	\$5,146.17
Multi-Purpose Indoor Sports Facility	\$1,405.31
Olympic Pool	\$4,577.06
Open Space Acquisitions	\$56,088.98
Open Space Increased Capacity	\$111,178.71
North Sydney Public Domain	-
St Leonards Public Domain Improvements	-
Public Domain Improvements	\$4,394.88
Traffic Improvements	\$5,394.63
Total	\$204,134.82

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 Section 94 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 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

- C37. 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. 790887M_03 dated 6 November 2018 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 addition of the bay windows and balconies to the 1 bedroom apartments will provide improved residential amenity for the future occupants of the apartments. The addition of privacy screens to the bay windows and balconies will ensure reasonable visual privacy is maintained between apartments on the subject site and adjoining properties.

How were community views taken into account in making the decision

The S4.55 application was notified to the Precinct Committee and surrounding properties between 23 November 2018 and 7 December 2018. One (1) submission was received against the application. The issues raised in the submissions are summarised in the delegated report and addressed with modified conditions, where appropriate.

The conditions attached to the original consent for Development Application No. 163/17 by endorsed date of 6 December 2017 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Luke Donovan**. 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (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 Certifying Authority 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.

DATE

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