

Thirdi Kurraba Point Pty Ltd
343 Pacific Highway
NORTH SYDNEY NSW 2000

D255/19
RT (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 255/19/3 - APPROVAL

Development Consent Number: 255/19

Land to which this applies: 147, 151 and 153 Kurraba Road, Kurraba Point
Lot No.: 129, SP: 400586; SP: 22851

Applicant: Thirdi Kurraba Point Pty Ltd

Proposal: Section 4.55(2) application (D255/19) seeking various design modifications to an approved development for demolition of existing buildings, excavation, and construction of a part four, part six-storey residential flat building

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. **255/19** and registered in Council's records as Application No. **255/19/3** relating to the land described as 147, 151 and 153 Kurraba Road, Kurraba Point.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **11 March 2020**, has been determined in the following manner:

- 1. To modify the development consent (D255/19) and modify conditions A1, C11, C25, E10, G21 and I7 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.	Rev	Title	Drawn by	Dated
DA-0101	22	Site Plan	SJB Architects	10/03/2020
DA-0201	22	Floor Plan Basement 3	SJB Architects	27/11/2019
DA-0202	22	Floor Plan Basement 2	SJB Architects	27/11/2019

DA-0203	22	Floor Plan Basement 1	SJB Architects	27/11/2019
DA-0204	23	Floor Plan Level 1	SJB Architects	26/11/2019
DA-0205	23	Floor Plan Level 2	SJB Architects	27/11/2019
DA-0206	22	Floor Plan Level 3	SJB Architects	27/11/2019
DA-0207	22	Floor Plan Level 4	SJB Architects	27/11/2019
DA-0208	22	Floor Plan Level 5	SJB Architects	27/11/2019
DA-0209	22	Floor Plan Level 6	SJB Architects	27/11/2019
DA-0210	22	Floor Plan Roof	SJB Architects	27/11/2019
DA-0501	22	Elevations North	SJB Architects	27/11/2019
DA-0502	22	Elevations East	SJB Architects	27/11/2019
DA-0503	22	Elevations South	SJB Architects	27/11/2019
DA-0504	22	Elevations West	SJB Architects	27/11/2019
DA-0601	22	Section A	SJB Architects	27/11/2019
DA-0602	22	Section B	SJB Architects	27/11/2019
DA-0603	22	Section C	SJB Architects	27/11/2019
DA-0604	22	Section D	SJB Architects	27/11/2019
-	02	Section Setouts	SJB Architects	August 2019
-	02	Section 1	SJB Architects	August 2019
-	02	Section 2	SJB Architects	August 2019
-	02	Section 3	SJB Architects	August 2019
-	02	Section 5	SJB Architects	August 2019
DA-1401	22	Adaptable Layout	SJB Architects	27/11/2019
DA-2501	23	Demolition Plan	SJB Architects	27/11/2019
-	-	Finishes Board	SJB Architects	Received by Council 27/11/2019
LP01-D4619	J	DA Cover	Dangar Barin Smith	22/11/2019
LP02-D4619	J	Level 1	Dangar Barin Smith	22/11/2019
LP03-D4619	J	Level 2	Dangar Barin Smith	22/11/2019
LP04-D4619	J	Level 5	Dangar Barin Smith	22/11/2019
LP05-D4619	J	Roof	Dangar Barin Smith	22/11/2019

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D255/19/2:

Plan No. /Issue/Rev	Title	Prepared by	Date
DA-0101/28	Overall Plans Site Plan	SJB Architects	10.12.20
DA-0201/28	Floor Plan Basement 3	SJB Architects	10.12.20
DA-0202/28	Floor Plan Basement 2	SJB Architects	10.12.20
DA-0203/28	Floor Plan Basement 1	SJB Architects	10.12.20
DA-0204/28	Floor Plan Level 1	SJB Architects	10.12.20
DA-0205/28	Floor Plan Level 2	SJB Architects	10.12.20
DA-0206/28	Floor Plan Level 3	SJB Architects	10.12.20
DA-0207/28	Floor Plan Level 4	SJB Architects	10.12.20
DA-0208/28	Floor Plan Level 5	SJB Architects	10.12.20
DA-0209/28	Floor Plan Level 6	SJB Architects	10.12.20
DA-0210/28	Floor Plan Roof	SJB Architects	10.12.20
DA-0501/27	Elevations North	SJB Architects	09.12.20
DA-0504/28	Elevations West	SJB Architects	11.12.20

DA-0601/27	Section A	SJB Architects	09.12.20
DA-0602/27	Section B	SJB Architects	09.12.20
DA-0603/28	Section C	SJB Architects	11.12.20
DA-0604/27	Section D	SJB Architects	09.12.20
LP01 Issue 01 Rev A	S4.55 Cover Page	Danger Barin Smith	27.11.2020
LP02 Issue 01 Rev A	Level 1	Danger Barin Smith	27.11.2020
LP03 Issue 01 Rev A	Level 2	Danger Barin Smith	27.11.2020
LP04 Issue 01 Rev A	Level 5	Danger Barin Smith	27.11.2020
LP05 Issue 01 Rev A	Roof	Danger Barin Smith	27.11.2020

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D255/19/3:

Plan No./Rev	Title	Prepared by	Date
DA-0101 Rev 32	Overall Plans Site Plan	SJB Architects	21.05.2021
DA-0201 Rev 32	Floor Plan Basement 3	SJB Architects	21.05.2021
DA-0204 Rev 32	Floor Plan Ground Floor	SJB Architects	21.05.2021
DA-0205 Rev 32	Floor Plan Level 1	SJB Architects	21.05.2021
DA-0206 Rev 32	Floor Plan Level 2	SJB Architects	21.05.2021
DA-0207 Rev 35	Floor Plan Level 3	SJB Architects	05.07.2021
DA-0208 Rev 32	Floor Plan Level 4	SJB Architects	21.05.2021
DA-0209 Rev 32	Floor Plan Level 5	SJB Architects	21.05.2021
DA-0210 Rev 32	Floor Plan Roof	SJB Architects	21.05.2021
DA-0501 Rev 32	Elevations North	SJB Architects	21.05.2021
DA-0502 Rev 32	Elevations East	SJB Architects	21.05.2021
DA-0503 Rev 32	Elevations South	SJB Architects	21.05.2021
DA-0504 Rev 32	Elevations West	SJB Architects	21.05.2021

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

BASIX Certificate

- C25. 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. 980997M_10 dated 25 May 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)

2. To insert new conditions A5, C45 and C46 as follows:

Terms of Consent (D255/19/3)

A4. Approval is granted for the following works as shown on the drawings for D255/19/3 as referenced in Condition A1 of this consent:

(a) Basement Level 03:

- Change of use for an approved plant room to a wine room and associated fitout;

(b) Ground Level:

- Re-numbering of floor level (previously Level 1) and Units (previously 1.01, 1.02, and 1.03 to G.01, G.02 and G.03);
- Extension of external wall to lobby and Units G.01 and G.02, including reduced window openings to G.01 kitchen and G.02 ensuite;
- Addition of two (2) 500mm x 500mm columns to external wall of Unit G.01 dining room; and
- Internal reconfiguration of Units G.01 and G.02, including minor internal wall adjustments, room relocation, and room layout changes;

(c) Level 1:

- Re-numbering of floor level (previously Level 2) and Units (previously 2.01, 2.02, 2.03, 2.04, 2.05, 2.06 to 1.01, 1.02, 1.03, 1.04, 1.05 and 1.06);
- Straightening of northern external wall to Unit 1.01 kitchen and laundry;
- Extension of external wall to Units 1.03 and 1.04, including reduced window openings to 1.03 laundry/pantry and 1.04 kitchen;
- Addition of gated entrances to landscaped terraces of Units 1.01 and 1.02, including additional paving to landing;
- Addition of two (2) 500mm x 500mm columns to external wall of Unit 1.04 wintergarden;
- Extension of external slab edge to Unit 1.02 kitchen; and
- Internal reconfiguration of Units 1.01, 1.02, 1.03, 1.04, and 1.05, including minor internal wall adjustments, room relocation, and room layout changes.

(d) Level 2:

- Re-numbering of floor level (previously Level 3) and Units (previously 3.01, 3.02, 3.03, 3.04, 3.05 and 3.06 to 2.01, 2.02, 2.03, 2.04, 2.05, 2.06);
- Extension of external wall to Units 2.03 and 2.04, including reduced window openings to 2.03 laundry/pantry and 2.04 kitchen;
- Addition of two (2) 500 mm x 500 mm columns to external wall of Unit 2.04 winter garden;
- Extension of external slab edge to Unit 2.02 kitchen; and
- Internal reconfiguration of Units 2.01, 2.02, 2.03, 2.04, and 2.05, including minor internal wall adjustments, room relocation, and room layout changes.

(e) Level 3:

- Re-numbering of floor level (previously Level 4) and Units (previously 4.01, 4.02, 4.03, 4.04, 4.05, 4.06 to 3.01, 3.02, 3.03, 3.04, 3.05 and 3.06);
- Extension of external wall to Units 3.03 and 3.04, including reduced window openings to 3.03 laundry/pantry and 3.04 kitchen;
- Addition of two (2) 500 mm x 500 mm columns to external wall of Unit 3.04 wintergarden;
- Extension of external slab edge to Unit 3.02 kitchen; and
- Internal reconfiguration of Units 3.01, 3.02, 3.03, 3.04, and 3.05, including minor internal wall adjustments, room relocation, and room layout changes.

(f) Level 4:

- Re-numbering of floor level (previously Level 5) and Units (previously 5.01, 5.02 to 4.01, 4.02);
- Extension of external wall to Units 4.01 and 4.02, including reduced window openings to 4.01 study and 4.02 kitchen;
- Addition of one (1) column to eastern elevation of Unit 4.01 balcony;
- Extension external of slab edge to Unit 4.01 dining room; and
- Internal reconfiguration of Units 4.01 and 4.02, including minor internal wall adjustments, room relocation, and room layout changes.

(g) Level 5:

- Re-numbering of floor level (previously Level 6) and Units (previously 6.01, 5.02 to 5.01, 4.02);
- Extension of external wall to Units 5.01 and 4.02, including reduced window openings to 5.01 study and 4.02 bedroom;
- Addition of one (1) column on eastern elevation to Unit 5.01 balcony;
- Extension of external slab edge to Unit 5.01 dining room; and
- Internal reconfiguration of Unit 5.01, including minor internal wall adjustments, room relocation, and room layout changes.

(h) Roof Level:

- Extension of external slab edge to align with building below;
- Addition of skylights to roof;
- Relocation of access hatches and solar panels; and
- Reduced dimensions of lift overrun.

(i) Addition of swing entrance gates to the eastern boundary of the landscaped terraces of Units 1.01 and 1.02 and construction of associated steps and pathway to Kurraba Road;

(j) Modifications to Conditions A1 - Development in Accordance with Plans/ documentation and C25 - BASIX Certificate.

No approval is given or implied in this consent for the removal of the approved landscaping along the perimeter of the roof top level and any other works, both internal and external, within the subject property.

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

Landscaped Terrace Gates for Units 1.01 and 1.02

- C45. The proposed gates along the eastern boundaries of the landscaped terrace for Units 1.01 and 1.02 must be fitted with soft closing mechanisms to minimise noise nuisance and associated amenity impacts for the adjoining properties.

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.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

Skylights

- C46. Skylight flashings and frames to be coloured to match the roof materials. Skylights are to sit no higher than 100mm above roof plane when in a closed position.

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.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

Reason for Approval:

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP&A Act 1979.

The proposed modifications would result in a development which is substantially the same development as originally approved as the proposed modifications would not materially change the development outcome in terms of density, height, bulk and scale, envelope and appearance of the approved residential flat building development.

The modified development as amended by the conditions of consent, would have no adverse impacts on the overall landscape quality of the development.

The proposed modifications, as amended by conditions, would have no material impacts on the amenity for the subject site and the adjoining properties.

The issues raised in the submissions have been addressed throughout this report.

The subject S4.55 application does not meet the criteria for determination by the SNPP and Council can determine the application in accordance with Clause 123BA of the Environmental Planning and Assessment Regulation 2000.

Having regard to the provisions of section 4.55 & 4.15(1) of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for **approval subject to the imposition of appropriate conditions**.

How community views were taken into account:

The proposal, as amended by condition of consent, is considered to be in the public interest for the reasons stated throughout this report.

The conditions attached to the original consent for Development Application No. 255/19 by endorsed date of **11 March 2020** 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 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)