

JRPP No:	2010SYE087
DA No:	DA 435/09/3
PROPOSED DEVELOPMENT:	Modify Approved Development Consent DA435/09 for a mixed use building including change to unit mix comprising 2 additional units, internal layout change and deletion of light well at first floor level – 520 Miller Street, Cammeray
APPLICANT:	Platino Properties Pty Ltd
REPORT BY:	Lara Huckstepp, Acting Team Leader (Assessments), North Sydney Council

Assessment Report and Recommendation

EXECUTIVE SUMMARY

This application seeks to modify the approved mixed use building at No.520 Miller Street, Cammeray, including a change to unit mix comprising 2 additional units, internal layout change and deletion of the approved light well at first floor level.

Council's notification of the proposal has attracted no submissions.

The proposed modifications are considered to be substantially the same as that approved by the Joint Regional Planning Panel and do not result in any additional material impacts compared to the approved development. **The modification application is recommended for approval.**

DESCRIPTION OF PROPOSAL

The proposal involves the modification of Development Consent DA435/09 which allowed the construction of a mixed use building at No.520 Miller Street, Cammeray.

The modification application relates only to the first floor level and seeks to replace 2 approved two bedroom apartments with 4 studio apartments. These apartments will extend into the previously approved lightwell at first floor level. No change is proposed to the approved light well at second and third floor levels.

The modified development will result in the total number of apartments within the development increasing from 36 (as approved) to 38.

STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Residential D
- Item of Heritage - No
- In Vicinity of Item of Heritage - No
- Conservation Area - No
- FSBL - No

S94 Contribution

Environmental Planning & Assessment Act 1979

SEPP No. 1 Objection

SEPP No. 55 - Contaminated Lands

POLICY CONTROLS

DCP 2002

DESCRIPTION OF LOCALITY

The subject site is formally identified as Lot 10 in DP3102 and Lots B & C in DP102431 and is located on the western side of Miller Street on the south-western side of the intersection with Palmer Street. Abbott Lane is located adjacent to the rear (western) boundary of the site. The site is rectangular in shape with a frontage to Miller Street of 35.4m and a frontage to Palmer Street of 36.6m. The site comprises an area of approximately 1288m². The site drops between 3m and 4m from the eastern boundary to the western boundary.

The subject site previously contained a disused service station and motor vehicle repair workshop which has since been demolished.

The site forms part of the Cammeray Village Centre and is located at its northern end. Commercial and retail development is located to the south of the site and on the opposite side of Miller Street. Residential buildings are located to the immediate north and west of the site.

Location of Subject Site



RELEVANT HISTORY

Development Application DA435/09 was approved by the Joint Regional Planning Panel on 7 April 2010. This approval allowed the construction of a part 4 / part 5 mixed use building with two basement levels consisting of 655 square metres of retail space, 36 apartments, rooftop communal facilities and parking for 57 vehicles at 520 Miller Street, Cammeray.

Section 96 Modification DA435/09/2 was approved by the Joint Regional Planning Panel on 1 September 2010 which allowed modification to a number of conditions of consent. It is noted that this application also sought to modify the building design to increase the number of apartments however the changes to the approved building form were refused under this modification.

The subject modification application was submitted to Council on **8 October 2010**.

REFERRALS

Building

The application has not been assessed specifically in terms of compliance with the Building Code of Australia (BCA). Council's standard condition relating to the compliance with the BCA continues to stand in place. Should further amendments be necessary to any approved plans to ensure compliance with the BCA, then a further Section 96 application to modify the consent may be required.

SUBMISSIONS

Adjoining properties and the Bridgeview / Plateau Precinct were notified of the proposed development between 15-29 October 2010. The application was advertised in the Mosman Daily on 14 October 2010. No submissions were received in relation to the development application.

CONSIDERATION

The proposal is required to be assessed having regard to the following matters.

Section 96(2) of the Environmental Planning and Assessment Act 1979 enables a consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

- is satisfied that the development to which the consent as modified relates is substantially the same development;
- has consulted the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent;
- has notified the application in accordance with the regulations and has considered any submissions made concerning the proposed modification; and
- in determining the application for modification, has taken into consideration such matters referred to under Section 79C(1) as are relevant.

Therefore, Council's assessment of the application to modify the subject development consent must consider the following issues:

1. Is the proposed development as modified substantially the same development approved by the Joint Regional Planning Panel?

Yes. It is considered that the amended scheme is substantially the same as that approved by the Panel.

2. **Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies?**

No concurrence from any other body is required.

3. **Whether any submissions were made concerning the proposed modification.**

There were no submissions received in relation to the proposed development.

4. **Any relevant considerations under Section 79C(1) of the Environmental Planning and Assessment Act 1979.**

The proposed modifications are considered against the relevant provisions of the Local Environment Plan 2001 as follows:-

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2001 (NSLEP 2001)

1. Building Height

The proposed modifications do not result in any additional breach to the Building Height Control pursuant to Clause 17 NSLEP 2001.

2. Building Height Plane

The proposed modifications do not result in any additional breach to the Building Height Plane Control pursuant to Clause 18 NSLEP 2001.

3. Landscaped Area

The reconfiguration of the balconies serving the proposed studio apartments result in an additional 8sqm in total of balcony floor area. The proposed modifications continue to comply with the landscaped area control pursuant to Clause 21 NSLEP 2001.

4. Floorspace

The proposed modifications do not result in any material change to the approved floorspace pursuant to Clause 21 NSLEP 2001.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2002 (NSDCP 2002)

1. Mixed Residential Population

The modifications propose an increase in the number of apartments by replacing 2 approved two bedroom apartments, with 4 studio apartments. Section 7.1 of the NSDCP 2002 requires that at least two of each dwelling type should be provided. The mix of apartments proposed under this Section 96 modification are as follows:-

Studio Apartment	12
1 bedroom	10
2 bedroom	11
3 bedroom	5
Total	38

The proposed mix of apartments continues to represent an appropriate mix of apartment types.

2. Views

The proposed modifications will be generally contained within the approved building envelope and will not materially reduce views from any adjoining property and satisfies the provisions of Section 7.2(e) NSDCP 2002.

3. Solar Access

The proposed modifications will be generally contained with the approved building envelope and will not materially reduce solar access to any surrounding property and satisfies the provisions of Section 7.2(f) NSDCP 2002.

4. Visual Privacy

The proposed modifications do not propose any additional openings which will materially reduce privacy to any adjoining residential dwelling and satisfies the provisions of Section 7.2(i) NSDCP 2002.

5. Balconies

Each proposed studio apartment will be provided with a balcony having an area of 8sqm and satisfies the provisions of Section 7.3(n) NSDCP 2002.

6. High quality of residential accommodation

Each proposed studio apartment will have an area in excess of 40sqm and satisfies the minimum space requirements for a studio apartment set out in Section 7.4(c) NSDCP 2002.

A light well will be provided to each of these studio apartments. This lightwell is provided off the approved larger light well at second and third floor levels. Adequate cross ventilation will be provided to these studio apartments having regard to the originally approved development. No change will occur to the quantum of cross-ventilation received by the apartments on second and third floor levels.

The proposed additional studio apartments will result in a total of 14 apartments being provided by a single lift core. Whilst Council's controls allow for a maximum of 10 apartments to be provided via a central lift core, the JRPP granted consent to the original proposal allowing for 12 apartments to access this lift. Given that the number of bedrooms provided will be generally maintained in this instance, it is considered that this non-compliance is not a determinative issue.

On balance, the proposed modifications generally satisfy the provisions of Section 7.4(c) NSDCP 2002.

7. Car Parking

There is no change proposed to the approved quantum of car parking on the site, which continues to be provided as follows:

Residential	40
Visitors	10
Retail	6
Disabled	1
Total	57

Section 9 NSDCP 2002 set maximum car parking controls requiring a maximum of 1 parking space be provided for each 2 bedroom apartment and a maximum of 0.5 parking spaces be provided for each studio apartment. As such, there is no change in car parking demand proposed by the modification, which continues to require a maximum 41 on-site parking spaces on the site for allocation to the residential properties.

The development scheme continues to provide 40 on-site residential car parking spaces which is considered to generally comply with this control, given that these are maximum controls. The proposed modifications continue to generally satisfy the provisions of Clause 7.4(h) NSDCP 2002.

SEPP 65 – RESIDENTIAL FLAT DESIGN CODE (RFDC)

Council Officers recommended refusal of the approved development scheme for reasons including a number of non-compliances with the RFDC.

The proposed four studio apartments will each receive a similar level of amenity to those studio apartments approved by the Joint Regional Planning Panel. Each of these studio apartments will receive cross ventilation and are considered to be afforded with adequate amenity.

In accordance with the RFDC each balcony will have a minimum of 2m depth and are considered adequate.

The RFDC limits the number of apartments provided by a single lift core to 8 apartments. The approved development scheme allowed 10 apartments at first floor level to be provided with a single lift core and the modifications propose to increase the number of apartments on this level to 12 apartments. Despite this, given that the number of bedrooms now proposed (4 x studio apartments) will generally result in the same quantum as approved (2 x 2 bedroom), this is not considered to be a determinative issue.

Minimal changes are proposed to the overall approved built form of the building. The proposed amendments are not considered to substantially alter the proposal's compliance with SEPP65 or the RFDC compared to the development approved by the Joint Regional Planning Panel.

The proposed modifications are not considered to substantially alter the scheme's compliance with any relevant plan or policy applying to the site as assessed under the originally approved development scheme.

ENVIRONMENTAL CONSIDERED

APPRAISAL

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes
10.	Section 89 LGA 93 including Clause 12 Consideration of Local Government (Approvals) Regulation 1993	Yes

CLAUSE 14 NSLEP 2001

Consistency with the Aims of Plan, Zone Objectives and Desired Character

The provisions of Clause 14 of NSLEP 2001 have been examined. It is considered that the development is consistent with the specific aims of the plan and the objectives of the zone and of the controls. As such, consent to the development may be granted.

CONCLUSION

The proposed modifications are considered to result in substantially the same development as that originally approved by the Joint Regional Planning Panel. The modifications do not result in any additional impacts to any adjoining properties and the level of residential amenity provided to the proposed studio apartments is considered to be acceptable for reasons set out within this report.

As such, the modification has been assessed under the provisions of the Environmental Planning and Assessment Act 1979, North Sydney Local Environmental Plan 2001, Development Control Plan 2002 and all relevant State Plans or Policies as satisfactory. The S96(2) application is therefore recommended for approval.

The modification of a number of conditions of consent including the required Section 94 Contributions are set out below.

RECOMMENDATION

Pursuant to Section 96 of the Environmental Planning and Assessment Act 1979:

- A. **THAT** the Joint Regional Planning Panel resolve to grant consent to modify its development consent DA435/09 dated 7 April 2010 in respect of a proposal to construct a part 4/ part 5 storey mixed use building with two basement levels consisting of 655sqm of retail space, 38 apartments, rooftop communal facilities and parking for 57 vehicles on land described as 520 Miller Street, Cammeray under the provisions of Section 96 of the Environmental Planning and Assessment Act only in so far as will provide for the following:

1. That Condition A1 be amended as follows:

Development in Accordance with Plans

- A1. The development being carried out in accordance with drawings numbered DA01-DA19 (inclusive), all Issue F, dated 11 March 2010, drawn by Revay and Unn, received by Council on 11 March 2010 and endorsed with Council's approval stamp, except as modified in highlighting as follows:-

(a) Drawings DA.07J, DA.08J, DA11J, DA12J & DA16J, all dated 6 October 2010, prepared by Revay & Unn, and received by Council on 8 October 2010.

Except where amended by the following conditions.

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

2. That Condition C48 be amended as follows:

Section 94 Contributions

- C48. A contribution pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act 1979, as specified under the North Sydney Section 94 Contribution Plan for the services detailed in column A and, for the amount detailed in column B shall be made to Council.

A	B (\$)
Administration	4,327.43
Child Care Facilities	9,044.52
Community Centres	18,347.20
Library Acquisition	3,448.45
Library Premises & Equipment	10,651.53
Multi Purpose Indoor Sports Facility	3,006.74
Open Space Acquisition	107,031.31
Open Space Increased Capacity	212,154.71

Olympic Pool	9,794.65
Public Domain Improvements	10,689.54
Traffic Improvements	10,185.44
The total contribution is	<u>\$398,681.50</u>

The above amount, if not paid within one calendar year of the date of this consent, shall 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)

3. That Condition C49 be amended as follows:

Security Bond Schedule

C49. All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of the required Construction Certificate:

SECURITY BONDS	AMOUNT (\$)
Drainage Construction Bond	18,000.00
Engineering Construction Bond	78,000.00
TOTAL BONDS	<u>\$96,000.00</u>
FEES	
Section 94 contribution	\$398,681.50
TOTAL FEES	<u>\$398,681.50</u>

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