



Allyson Small  
20 Cammeray Road  
CAMMERAY NSW 2062

D247/21  
TH2 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 247/21/2 - APPROVAL**

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**Development Consent Number:** 247/21/2

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**Land to which this applies:** 20 Cammeray Road, Cammeray  
Lot No.: 91 DP: 213703

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**Applicant:** Allyson Small

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**Proposal:** To modify a consent for alterations and additions to shop top housing development

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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. **247/21** and registered in Council's records as Application No. **247/21/2** relating to the land described as **20 Cammeray Road, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **9 December 2021**, has been determined in the following manner:

**A. Add Condition A5, A6, C22 and I2 as follows:**

**Development in accordance with Plans (s4.55 Amendments)**

A5. The development being carried out in accordance with plans identified in Condition A1 of the consent and A5 of the modification to consent endorsed with Council's approval stamp, except as modified by the modifications shown on:

Plan No.	Issue	Title	Drawn by	Received
DA02	D	Shop, Level 1 + 2 Demolition Plan	Boutique Design and Project Management	9/02/2022
DA10	D	Retail - Ground Floor Plan	Boutique Design and Project Management	9/02/2022
DA11	D	Residential - Level 1 Floor Plan	Boutique Design and Project Management	9/02/2022
DA12	D	Residential - Level 2 + 3 Floor Plan	Boutique Design and Project Management	9/02/2022
DA13	D	Site Plan/Roof Plan	Boutique Design and Project Management	9/02/2022

DA20	C	Section A-A	Boutique Design and Project Management	9/02/2022
DA21	C	Section B-B Section C-C	Boutique Design and Project Management	9/02/2022
DA30	C	North and South Elevation	Boutique Design and Project Management	9/02/2022
DA31	C	West Elevation	Boutique Design and Project Management	9/02/2022

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

### **Use of the Ground Floor Tenancy**

A6. The modification of development consent DA 247/21 does not confer a change of use for the non-residential tenancy, only alterations to the tenancy.

(Reason: To confirm development consent is not granted for the use of the non-residential tenancy, only alterations to the tenancy)

### **Amended Western Setback - Level 3 - RL 56.50**

C22. The cantilevered Level 3 addition (RL 56.50) for the full length of the kitchen wall (5.85 m in length) as shown clouded in red on Dwg No. DA12 Rev D is to be setback 500 mm from the western side boundary adjoining 16-18 Cammeray Road.

The windows W8a and W8b located on the Level 3 West Elevation may remain. The internal kitchen/dining and living layout of Level 3 may need revision to provide the additional setback to the western boundary.

The revised plans subject to this condition of consent must be reviewed by the Team Leader (Assessments), North Sydney Council for written approval prior to the issue of any construction certificate.

The Certifying Authority must ensure that the plans for the construction certificate are amended to meet the above requirements prior to the issue of the construction certificate.

(Reason: To ensure the amenity of the subject site and adjoining site is maintained)

### **Single Occupancy**

I1. Nothing in this consent authorises the residential use of the premises other than for a single occupancy.

(Reason: To ensure compliance with the terms of this consent)

**B. Modify Conditions C18 and C21 as follows:**

**Privacy**

C18. The following privacy devices **amendment is required** ~~are to be provided:~~

- b) ~~Privacy film shall be installed to the outside of W08~~
- a) **The window W9 as shown on the Level 3 Floor Plan (DA12 Rev D) is to be deleted to be replaced with a solid wall and no opening is approved.**
- b) **Fixed louvre privacy screen shall be attached to the eastern side of the rear terrace, with a minimum height of 1.8 m above the terrace floor level. The location of the required privacy screen is annotated and clouded in red on the approved plans in Condition A5.**

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 18 Cammeray Road, Cammeray)

**BASIX Certificate**

C21. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. ~~A415481\_03~~ **A415481\_04** 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)

**C. Delete Condition A4 as follows:**

**~~Design Amendment~~**

~~A4. The first floor addition on the western elevation is to be setback 1.2m to the north as shown clouded in red on the stamped plans. The Certifying Authority must be satisfied that the design of the first floor addition is sufficiently clear of the window to the adjoining dwelling.~~

~~(Reason: To ensure the amenity of the adjoining site is maintained)~~

**Reasons 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 are consistent with the reasons for the granting of development consent to the originally approved development and is considered to be acceptable.

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The proposal will provide for improved residential accommodation on the site without compromising the amenity of the surrounding properties and locality. The proposal is considered to achieve the relevant objectives of the B1 Neighbourhood Centre Zone retaining a small scale non-residential use on the ground floor facing Cammeray Road.

Two submissions were received and to ensure sufficient amenity appropriate conditions of consent are recommended including deletion of a window, provision of a privacy screen for the rear terrace (C18 Privacy) and a design amendment is recommended for the Level 3 cantilevered addition to ensure maintenance between properties and maintenance of reasonable residential amenity (Amended Western Setback - Level 3 - RL 56.50).

Having regard to the provisions of section 4.55 and 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**.

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**How community views were taken into account:**

The application was notified to adjoining properties and the Bay Precinct for 14 days where issues were raised concerning overshadowing and proposed side setbacks which have been addressed in the planning report. Where appropriate conditions of consent have been recommended including privacy measures deleting a side window, provision of a privacy screen and a design requirement for an additional side setback for the Level 3 cantilevered addition.

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The conditions attached to the original consent for Development Application No. **247/21/2** by endorsed date of **9 December 2021** still apply.

**ADVISINGS**

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

**30 August 2022**

DATE



Signature on behalf of consent authority  
ROBYN PEARSON  
**TEAM LEADER (ASSESSMENTS)**