

Kirsten Kerrisk
53 Ellery Parade
SEAFORTH NSW 2092

D65/20
LV (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 65/20/3 - APPROVAL**

Development Consent Number: 65/20

Land to which this applies: 60 Milray Avenue, Wollstonecraft
Lot No.: 3, DP: 801569

Applicant: Kirsten Kerrisk

Proposal: To modify a consent, enable various internal and external alterations to the approved development

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. **65/20** and registered in Council's records as Application No. **65/20/3** relating to the land described as **60 Milray Avenue, Wollstonecraft**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **4 September 2020**, has been determined in the following manner:

- To delete condition (A1) of the consent and insert in lieu thereof the following new condition, namely:***

Development in Accordance with Plans/Documentation

Plan No	Rev.	Title	Prepared	Dated
Page 1	C	Site Analysis	Alexander Michael & Assoc.	12/02/2021
Page 3	C	Basement Level		12/02/2021
Page 4	C	Ground Floor		12/02/2021
Page 5	C	1 st Floor level		12/02/2021
Page 6	C	Roof		12/02/2021
Page 7	C	North Elevation		12/02/2021
Page 7a	C	Street Elevation		12/02/2021
Page 8	C	Elevations		12/02/2021
Page 9	C	Elevations		12/02/2021
Page 10	C	Sections A & B		12/02/2021

As amended by the following plans

Plan No	Rev.	Title	Dated	Prepared	Received
CCP-S4.55-02	B	Basement	29/04/2022	CC Pines Pty Ltd	11/05/2022
CCP-S4.55-03	B	Ground Floor	29/04/2022		11/05/2022
CCP-S4.55-04	B	First Floor	29/04/2022		11/05/2022
CCP-S.455-05	B	Roof plan	29/04/2022		11/05/2022
CCP-S4.55-06	B	South Elevation	29/04/2022		11/05/2022
CCP-S4.55-07	B	West Elevation	29/04/2022		11/05/2022
CCP-S4.55-08	B	North Elevation Section FF	29/04/2022		11/05/2022
CCP-S.455-09	B	East Elevation Section EE	29/04/2022		11/05/2022
CCP-S4.55-10	B	Section AA	29/04/2022		11/05/2022
CCP-S4.55-11	B	Section BB	29/04/2022		11/05/2022
CCP-S4.55-12	B	Glazing Schedule	29/04/2022		11/05/2022
CCP-S.455-17	B	Finishes	29/04/2022		11/05/2022
CCP-LD-001	C	Revised Landscape Plan	13/04/2022		11/05/2022

2. To Amend Condition C1

Revised Landscape Plan

C1 The applicant must submit a revised landscape plan, based on the submitted landscape plan (Drawing Number CCP-LD-001 Issue C, dated 13 April 2022, prepared by CC Pines PTY LTD) showing the following:

- (a) *Murraya paniculata* along the northern property boundary shall be minimum 300 mm pot size;
- (b) Magnolia 'Little Gem' adjacent to the front fence shall be minimum 400 mm pot size;
- (c) The rain gardens associated with the stormwater discharge within the rear of the subject site should be designed in accordance with WSUD principals, i.e., slowing the velocity of stormwater flows and maximising infiltration potential in to the soil profile. Plant species selection for rain gardens must be locally endemic and selected from the North Sydney Council species list for the plant community "Blackbutt Gully Forest;"
- (d) The rain garden design must seek to ensure soil stability both within the property, on neighbouring private properties and in the adjoining Gore Cove Reserve
- (e) The revised landscape plan must show names of species of all new planting, pot sizes and numbers.
- (f) The revised landscape plan is also to reflect the additional front gate and associated landscaping

The landscape plan must be submitted for the written approval of Council's Team Leader Assessment in consultation with Council's Bushland Management Coordinator.

The Certifying Authority must ensure that the Council's written approval, landscape plan and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure a desirable landscaping outcome for the subject site and the locality and the protection of nearby bushland)

3. *The following conditions are to be added:*

Rooftop Garden

- 14 The rooftop garden located on the northern side of the dwelling above the lounge/living area must remain as non-trafficable area to be limited to garden maintenance only and not be used as a balcony or terrace for outdoor entertainment.

(Reason: To ensure visual privacy of adjoining properties)

Planter Boxes to be Fixed

- 15 The planter boxes on the roof garden are to be fixed and not removable to maintain the amenity of the rooftop garden.

(Reason: To ensure that the rooftop garden remains to enhance residential amenity)

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. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Reasons for Approval:

It was noted that the conversion of the approved green roof to a trafficable roof garden/terrace is not consistent with provisions within North Sydney Council's Development Control Plan 2013. As such a condition has been included in the determination to prevent the use of the green roof as a trafficable space.

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**.

How community views were taken into account:

No submissions were received in response to this proposal.

The conditions attached to the original consent for Development Application No. **65/20** by endorsed date of **4 September 2020** still apply.

ADVISINGS

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

25 August 2022

DATE



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