



Philip Corben  
 Corben Architects  
 PO Box 1021  
 NEUTRAL BAY NSW 2089

D142/17/2  
 TH2 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
 SECTION 4.55 MODIFICATION 142/17/2 - APPROVAL**

<b>Development Consent Number:</b>	<b>142/17</b>
<b>Land to which this applies:</b>	23 Rowlison Parade, Cammeray Lot No.: 18, DP: 10001
<b>Applicant:</b>	Corben Architects
<b>Proposal:</b>	To modify a consent for alterations and additions

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. **142/17** and registered in Council’s records as Application No. **142/17/2** relating to the land described as **23 Rowlison Parade, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **7 June 2017**, has been determined in the following manner:

**A. Add Condition A4, C10, C11 and G3 as follows:**

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

A4. The development being carried out in accordance with plans identified in Condition A1 of the consent and A4 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	B	Level 1 Plan	Corben Architects	30 March 2022
DA03	C	Level 2 Plan	Corben Architects	3 August 2022
DA04	C	Level 3 Plan	Corben Architects	3 August 2022
DA05	B	Level 4 Plan	Corben Architects	30 March 2022
DA07	B	North Elevation	Corben Architects	30 March 2022
DA09	B	East Elevation	Corben Architects	30 March 2022
DA10	C	West Elevation	Corben Architects	3 August 2022
DA11	B	Section A	Corben Architects	30 March 2022
DA12	B	Section B	Corben Architects	30 March 2022
DA13	C	Section C	Corben Architects	03 August 2022

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

**External Colours and Finishes**

C10. The external colours and finishes shall match those as existing and/or be compatible with surrounding development. A schedule of external colours and finishes 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 that the completed colours and finishes of the works are compatible with surrounding development)

**Compliance with Bushfire Report**

C11. The recommendations contained in the bushfire report prepared by Steve Brooks Bushfire Consultant dated 18 August 2022 must be implemented during construction and ongoing use of the development.

A statement from an appropriately qualified consultant in bushfire risk management recognised by the NSW Rural Fire Service, certifying that suitable construction measures outlined in the above report have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Principal 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 that the bushfire protection measures are implemented)

**Bushfire Protection Certification**

G3. Prior to the issue of any Occupation Certificate, a certificate from an appropriately qualified bushfire consultant recognised by the NSW Rural Fire Service is to be submitted to, and approved by, the Certifying Authority certifying that the construction measures for the development complies with the conditions of consent here in.

(Reason: To ensure bushfire protection)

**B. Modify Condition C9 as follows:**

**BASIX Certificate**

C9. 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. **A277563\_03**, dated 2 August 2022, 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)

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.

The existing building exceeds the maximum permitted building height of 8.5 m and internal alterations are proposed above the maximum height of building. The works which exceed the maximum height of building are internal having no impact to the bulk and scale of the dwelling. The internal alterations that are above the building height limit meet the height of building objectives in Cl. 4.3 of the NSLEP 2013 having no impact on the topography of the site and no material impact on neighbouring properties and the locality.

**Reasons for Approval:**

Alterations to the front façade involving removal of a lift shaft and additional glazing is supportable noting glazing to the front façade is characteristic of neighbouring buildings and is a design response to water and bushland views to the north.

The development proposes additional windows for the side elevations however, privacy measures are proposed to the upper level windows to mitigate against loss of visual privacy for residents of adjoining properties. A condition of consent will also require the works inclusive of new windows to comply with the relevant Sections in AS 3959-2018 "Construction of buildings in Bushfire Prone Areas" noting the site is identified as Bushfire Prone Land.

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:**

The application was notified to adjoining properties and the Bay Precinct. Council received one submission raising concerns with potential damage to the boundary fence and foundations of the adjoining property due to earthworks close to the western side boundary. The modification retains the existing path within the western side setback preventing excavation within 1m of a property boundary and ensuring no adverse impact to the western side boundary at 21 Rowlison Parade.

The conditions attached to the original consent for Development Application No. **142/17** by endorsed date of **7 June 2017** still apply.

**ADVISINGS**

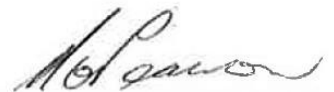
- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Thomas Holman**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as 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**

**31 August 2022**

DATE



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