



Mr John Mackay
12/5 Wallaroo Close
KILLARA NSW 2071

D69/18
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 S AMENDED
SECTION 4.55 MODIFICATION 69/18/6 - APPROVAL**

Development Consent Number: 69/18

Land to which this applies: 4 Carlow Street, North Sydney
Lot No.: 30 DP: 1123545

Applicant: John Mackay

Proposal: Modify DA69/18 proposing deletion of first floor windows, deletion of one skylight and construct new skylight to bedroom/study and modify approved pergola structure to be an operable vergola

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. **69/18** and registered in Council's records as Application No. **69/18/6** relating to the land described as **4 Carlow Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **3 October 2018**, has been determined in the following manner:

1. To insert Condition A4, as follows:-

Development in Accordance with Plans/Documentation (S.4.55 Modifications)

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

| Plan No. | Issue | Title | Drawn by | Dated | Received |
|----------|-------|---|-------------------------|-------------|-------------|
| L200 | A | Site Plan - Modification Application: PAN 69957 DA:69/18/3 | Landsberg Garden Design | 31 May 2022 | 7 June 2022 |
| L201 | A | Floor Plans - Modification Application: PAN 69957 DA:69/18/3 | Landsberg Garden Design | 31 May 2022 | 7 June 2022 |
| L202 | A | Elevations E/W - Modification Application: PAN 69957 DA:69/18/3 | Landsberg Garden Design | 31 May 2022 | 7 June 2022 |

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|----------|-------|--|-------------------------|-------------|-------------|
| L203 | A | Elevations N/S- Modification Application: PAN 69957 DA:69/18/3 | Landsberg Garden Design | 31 May 2022 | 7 June 2022 |
| L204 | A | Cross Section - Modification Application: PAN 69957 DA:69/18/3 | Landsberg Garden Design | 31 May 2022 | 7 June 2022 |

and except as amended by the following conditions and this consent. In the event of any inconsistency, the approval of DA69/18 prevails.

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

2. To modify Conditions C12 as follows:-

BASIX Certificate

C12. 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. A36093 (*As amended to accommodate required design changes*) 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 of minimal environmental impact and are 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 new 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:

Having regard to the provisions of section 4.55 and 4.15 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.

The development application has been assessed against the *North Sydney Local Environmental Plan 2013* and the *North Sydney Development Control Plan 2013*.

The proposed alterations and additions are within the existing building footprint and below the ridge level of the existing primary street orientated built form of the building. The first-

floor addition including modifications is concealed behind the existing main roof form, and the existing scale of the development will be generally maintained as envisaged by the controls.

The modified approved additions will also not adversely impact on the streetscape or significance of the Holtermann D Conservation Area.

There are no unreasonable impacts to neighbor's views, sun, privacy or amenity. Subject to conditions to further maintain privacy there are no unreasonable impacts to the street or local area.

Having regard to the provisions of Section 4.15 of *the Environmental Planning and Assessment Act 1979*, the application is considered to be satisfactory and therefore can be approved.

How community views were taken into account:

The owners of adjoining properties and the local community precinct were notified of the proposed development for a 14-day period in accordance with NSDCP 2013. The notification resulted in three (3) submissions.

Standard conditions can adequately address any potential, unreasonable adverse impacts to the locality and ensure the protection of the public interest.

The conditions attached to the original consent for Development Application No. **69/18** by endorsed date of **3 October 2018** still apply.

ADVISINGS

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

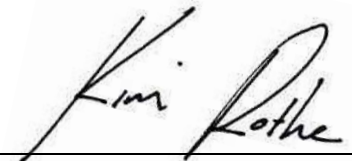
- (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
- (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are 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

2 February 2023

DATE



Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)