



Mr Mark Pearse
Pearse Architects
4/113 Reservoir Street
SURRY HILLS NSW 2010

D89/17
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 89/17/2 - APPROVAL**

Development Consent Number: 89/17

Land to which this applies: 12 Parkes Street, Kirribilli
Lot No.: 1, DP: 706725

Applicant: Mark Pearse

Proposal: Section 4.55(1A) application seeking modifications to Condition G6

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. **89/17** and registered in Council's records as Application No. **89/17/2** relating to the land described as **12 Parkes Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **12 July 2017**, has been determined in the following manner:

To modify the development consent (D89/17) and modify conditions G6 to read as follows:

Landscaping

G6. The landscaping shown in the approved landscape plan numbered LCP01, LCP02, LCP03, LCP04, LCP05 AND LCP06, prepared by Pearse Architects and received by council on 28 April 2017, including the landscaping as required by condition C2, must be completed prior to the issue of the **Final** Occupation Certificate.

(Reason: To ensure compliance)

Reasons for Approval:

The proposed modifications satisfy the provisions of Section 4.55 (1A) in that the proposed development is substantially the same as what was approved under DA 89/17 as the proposed modifications would not change the design of the approved development and its level of compliance with the DCP controls, as approved in the original DA.

The proposed modifications, involving changes to wording of Condition G6, would not change the scope of the approved works and would have no additional impacts on the amenity of the surrounding properties.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1A) application be approved to modify the relevant conditions.

How community views were taken into account:

Notification of the subject application was waived in accordance with Section 3.4.2 of Council's Community Engagement Protocol because the proposal is limited to the wording of Condition G6. These modifications to conditions would have no material impacts on the building heights and envelopes of the approved development, heritage significance of the existing dwelling/approved development as well as the amenity of the surrounding properties.

The conditions attached to the original consent for Development Application No. **89/17** by endorsed date of **12 July 2017** still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Robin Tse**. 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 May 2023

DATE



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