



Mrs Sophie Felsman
52 Shellcove Road
KURRABA POINT NSW 2089

D90/21
TH3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 90/21/3 - APPROVAL**

Development Consent Number: 90/21

Land to which this applies: 52 Shellcove Road, Kurraba Point
Lot No.: 10, DP: 1184205

Applicant: Sophie Felsman

Date of Determination: 09 May 2023

Proposal: To modify a consent for internal and external alterations including removal of partitions and new openings

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. **90/21** and registered in Council's records as Application No. **90/21/3** relating to the land described as **52 Shellcove Road, Kurraba Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **21 June 2021**, has been determined in the following manner:

A. Add Condition A7 and A8 as follows:

Development in Accordance with Plans (s4.55 Amendments)

A7. The development being carried out in accordance with plans identified in Condition A2 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.	Rev	Title	Drawn by	Received
DA03	10	Existing/Proposed Ground Floor Plans	Morrison Design Partnership	12/12/2022
DA26	10	Existing/Proposed Kitchen Sectional Elevations	Morrison Design Partnership	12/12/2022

DA27	10	Proposed Reflected Ceiling Plan	Morrison Design Partnership	12/12/2022
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Terms of Consent (D90/21/3)

A8. Approval is granted for the following modifications only:

- (a) Demolition of the existing ground floor existing kitchen/living room chimney breast and mantelpiece.
- (b) The retention of a nib wall and bulkhead, retention of footings of existing fireplace and new cornice and skirting to match.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear)

B. Modify Condition C6 as follows:

Heritage Requirements

C6. The following changes must be made to the plans prior to the issue of the construction certificate. Written concurrence is to be provided from Council's Conservation Planner to the certifier prior to the issue of any construction certificate and the certifier is to ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

- a) Exterior
 - i) New windows and doors to the proposed mudroom are to be timber framed.
- b) Ground Level Interior
 - i) New opening between the entrance hall and dining/lounge room to be designed as an archway similar in proportions to the existing hallway arches or shall be a rectilinear opening to include the retention of a bulkhead, nib wall and plate rails.
 - ii) New opening between the casual dining area and living room is to include a nib wall and bulkhead. New joinery to match existing.
- c) First Level Interior
 - i) New joinery to walk-in-robe is to be as detailed as per the drawing DA11 A03, dated 8 December 2021 by Morrison Design Partnership received at Council on 15 December 2021.
 - ii) Window seat to the proposed First Level office to be retained.
 - iii) New ensuite is to be detailed as per drawing DA12 A03, dated 8 December 2021 by Morrison Design Partnership, received at Council on 15 December 2021.
 - iv) New opening to the proposed master bedroom and walk-in-robe is to retain a bulkhead and new joinery to match.

(Reason: To retain original fabric that contributes to the significance, styling and character of the dwelling)

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. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications inclusive of additional information and amended plans address the reasons for not granting consent for the removal of the chimney breast with the original application.

The modification application proposing removal of the ground floor kitchen/living room chimney breast and associated mantelpiece is supported based on the additional information provided and further evidence to demonstrate the lack of original detailing for the chimney breast as well as submitted plans that show the retention of the exterior chimney stack and chimney breast on the first floor as well as retention of a nib wall to allow for continued interpretation of the original interior room configuration.

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 modification application was notified to adjoining properties and the Bennett Precinct for 14 days. Matters raised in a submission received following notification have been considered and addressed in the assessment and the proposed modification is considered to be in the public interest.

The conditions attached to the original consent for Development Application No. **90/21** by endorsed date of **21 June 2021** still apply.

ADVISINGS

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

9 May 2023

DATE



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