



Kathy Trelease
Australia Street Studio
71-73 Australia Street
CAMPERDOWN NSW 2050

D7/19
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 7/19/2 - APPROVAL**

Development Consent Number: 7/19

Land to which this applies: 2 French Street, McMahons Point
Lot No.: 1, DP: 222085

Applicant: Kathy Trelease

Proposal: Modifications to approved Development Application DA7/19.
Remove new bedroom from scope of work. Add repair of retaining wall to scope of work.

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. **7/19** and registered in Council's records as Application No. **7/19/2** relating to the land described as **2 French Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **14 June 2019**, has been determined in the following manner:

1. To insert Condition A4, as follows:

Development in Accordance with Plans (S.4.55 Modifications)

A4. 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.	Dated	Rev.	Title	Drawn by	Received
DA01	9/12/2022	B	Site Plan and Site Analysis	Eeles Trelease	28/12/2022
DA02	06/06/2023	D	BASIX and Area Analysis	Eeles Trelease	06/06/2023
DA03	9/12/2022	C	Lower Ground Floor Plan	Eeles Trelease	28/12/2022
DA04	9/12/2022	C	Ground Floor Plan	Eeles Trelease	28/12/2022
DA05	9/12/2022	B	Section A and B	Eeles Trelease	28/12/2022
DA06	9/12/2022	C	Elevations South and East	Eeles Trelease	28/12/2022

DA07	9/12/2022	C	Elevations North and West	Eeles Trelease	28/12/2022
DA08	9/12/2022	B	Landscape Plan	Eeles Trelease	28/12/2022
DA09	9/12/2022	C	Section at Stone Wall	Eeles Trelease	28/12/2022
DA10	9/12/2022	B	Erosion and Sediment Control Plan	Eeles Trelease	28/12/2022
DA11	9/12/2022	B	Work Zone Plan	Eeles Trelease	28/12/2022

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)

No Works to Adjoining Public Lands or Reserves

E15. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to obtain with Council's Open Space and Park Team prior to the commencement of construction work or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

2. To modify Conditions C17 as follows:

BASIX Certificate

C12. Under s.75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate **No. A483460** (*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)

3. To insert the following additional Condition:

Restoration of Adjoining Reserve

G3A. Prior to the issue of the relevant occupation certificate, restoration of the adjoining reserve within 3 metres of the boundary with the reserve is to be undertaken in consultation with Council's Parks Team. The applicant or any other person acting on this consent must demonstrate that restoration has been undertaken in accordance with this condition prior to the issue of the Occupation Certificate.

(Reason: To repair any damage arising from restoration of the sandstone retaining wall)

Reasons for Approval:

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.

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.

Reasons for the Decision

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

How community views were taken into account:

The owners of adjoining properties and the Waverton/Wollstonecraft Planning Precinct were notified of the modified development for a 14-day period. The notification resulted in nil (0) submissions. Standard conditions can also adequately address any potential, unreasonable adverse impacts within the locality and ensure the protection of the public interest.

The conditions attached to the original consent for Development Application No. 7/19 by endorsed date of **14 June 2019** 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

13 June 2023

DATE



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