



Romeo Computer Aided Design  
19/174 Willoughby Road  
CROWS NEST NSW 2065

D236/22  
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 236/2022/2 - APPROVAL**

**Development Consent Number:** 236/2022

**Land to which this applies:** 44 Carter Street, Cammeray  
Lot No.: 1 DP: 856262

**Applicant:** Romeo Computer Aided Design

**Date of Determination:** 16 June 2023

**Proposal:** Section 4.55(2) modification relating to demolition of an existing dwelling house and construction of a part two-, part three-storey dwelling house, landscaping, and associated works.

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. **236/22** and registered in Council's records as Application No. **236/22/2** relating to the land described as **44 Carter Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **8 January 2022**, has been determined in the following manner:

**A. Impose condition A4 Development in Accordance with Plans (S4.55 Modifications)**

A4. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Title	Dated	Prepared	Received
A-01	2	Site Plan	6/02/2023	ROMEOCAD	6/02/2023
A-02	2	Lower Ground Floor Plan	31/05/2023		31/05/2023
A-03	2	Ground Floor	6/02/2023		6/02/2023
A-04	2	First Floor Plan	6/02/2023		6/02/2023
A-05	2	Roof Plan	6/02/2023		6/02/2023
A-06	2	Gate House Plans	6/02/2023		6/02/2023
A-07	3	West Elevation	31/05/2023		31/05/2023

A-08	3	East Elevation	31/05/2023	31/05/2023
A-09	2	North Elevation	6/02/2023	6/02/2023
A-10	2	South Elevation	6/02/2023	6/02/2023
A-11	2	Short Section	6/02/2023	6/02/2023
A-12	2	Long Section	6/02/2023	6/02/2023
A-13	2	RWT Section	6/02/2023	6/02/2023
L-01	2	Proposed Landscape Plan	6/02/2023	6/02/2023
L-02 & L-03	2	Proposed Landscape Details	6/02/2023	6/02/2023

except as amended by the following conditions and this consent.

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

**B. Delete Conditions C2, C3, C4 and G6 as follows:**

**~~Rear Deck – Privacy Screens~~**

~~C2. The privacy screens along the eastern and western sides of the rear deck identified on the Ground Floor Plan A-03A are to be extended to the rear (northern) edge of the deck. A privacy screen is also to be provided on the eastern edge of the stair landing on the eastern side of the deck (identified as tread 13). The height of the additional privacy screening is to be 1.6m measured from the finished floor level of the deck. The additional privacy screening is to be constructed of timber and is to be consistent with the design of the privacy screening shown on the approved elevations.~~

~~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 maintain reasonable levels of privacy for the adjoining properties, specifically No. 46 Carter Street and No. 8 Stratford Street)~~

**~~Additional Tree Planting~~**

~~C3. Two trees, *Cupaniopsis anacardioides* (75L) and *Tristaniopsis laurina* (45L), are to be planted within the rear (northern) setback area of the site.~~

~~The Certifying Authority must ensure that the building plans, landscape plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.~~

~~(Reason: To contribute to the bushland character of the area)~~

**~~Privacy Measures~~**

~~C4. The glazing of windows W-F4 (Study) and W-F1 and W-F6 (Robes) on the first floor level is to be fixed and obscured to a minimum height of 1.5m above the finished floor level of the first floor level. The top panel of the windows above 1.5m may remain operable for natural ventilation.~~

~~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 maintain reasonable levels of privacy for the adjoining properties, specifically Nos. 44A and 46 Carter Street and Nos. 4 and 6 Stratford Street)~~

~~Compliance with Certain Conditions~~

~~G6. Prior to the issue of any Occupation Certificate Conditions C2, C3 and C4 must be certified as having been implemented on site and complied with.~~

~~(Reason: To ensure the development is completed in accordance with the requirements of this consent)~~

**C. Amended Condition C21 as follows:**

**BASIX Certificate**

C21 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. **A497819\_02**, dated **24 May 2023** 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)

**Reasons for Approval:**

The modification application meets the requirements of section 4.55(2) of the Act and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1) of the Act, which have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

The proposed modifications are considered substantially the same development and are consistent with the original reasons for approval. The proposed modifications generally retain the approved built form and the minor variations to the approved setbacks to shift the building would not have a material impact on the amenity of the surrounding properties. Other modifications to incorporate the requirements of the various conditions of consent are also consistent with the approved form of the development. Consequently, these conditions may be deleted as the requirements have been incorporated into the modification plans (Refer to Condition A4).

The proposed modification is therefore considered reasonable and is recommended for approval.

**How community views were taken into account:**

The modification application was notified in accordance with Council's Community Engagement Protocol from 24 February 2023 until 10 March 2023. No submissions were received. Nevertheless, the potential impacts to the amenity of the surrounding properties were considered.

The conditions attached to the original consent for Development Application No. **236/22** by endorsed date of **8 January 2022** still apply.

**ADVISINGS**

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

**20 June 2023**

\_\_\_\_\_  
DATE



\_\_\_\_\_  
Signature on behalf of consent authority  
ROBIN TSE  
**A/TEAM LEADER (ASSESSMENTS)**