



Mr Adriano Pupilli
Adriano Pupilli Architects
PO Box 770
MANLY NSW 2095

D412/18
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 412/18/5 - APPROVAL**

Development Consent Number:	412/18
Land to which this applies:	23 Park Avenue, Neutral Bay Lot No.: 4A, DP: 446324
Applicant:	Adriano Pupilli Architects
Proposal:	Modifications to approved development including to the finished floor level of the rear addition, and window and door changes

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. **412/18** and registered in Council's records as Application No. **412/18/5** relating to the land described as **23 Park Avenue, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **3 June 2019**, has been determined in the following manner:

1. Condition A5 is amended as follows:

Development in Accordance with Plans (S4.55 Amendments)

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 shown in colour for DA 412/18/4 on:

Plan No.	Issue	Title	Dated	Drawn by	Received
008	C	Site and Ground Floor Plan	27/04/2022	Adriano Pupilli Architects	5/05/2022
009	C	Lower Ground Floor Plan	27/04/2022		5/05/2022
010	C	Roof Plan	27/04/2022		5/05/2022
011	C	Section	27/04/2022		5/05/2022
012	C	Elevations N and S	27/04/2022		5/05/2022
013	C	Elevations E and W	27/04/2022		5/05/2022

Except as modified as such on the following drawings for DA 412/18/5:

Plan No.	Issue	Title	Dated	Drawn by	Received
008	D	Proposed Site and Ground Floor Plan	5/05/2023	Adriano Pupilli Architects	4/07/2023
011	D	Proposed Section	5/05/2023		4/07/2023
012	D	Proposed Elevations N S	5/05/2023		4/07/2023
013	D	Proposed Elevations E W	5/05/2023		4/07/2023

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)

2. Condition C15 is amended as follows:

BASIX Certificate

C22. Under Section 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. **A498377 (dated 15 June 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)

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposed development remains substantially the same as what was approved under DA 412/18. The proposed modifications will not alter the use of the development as approved and amenity impacts remain acceptable. The proposed modifications would not significantly change the level of compliance with the relevant development standards and controls as contained in NSLEP 2013 and NSDCP 2013.

Reasons for Approval:

Overall, the proposed works will provide improved resident amenity without negatively impacting the neighbourhood character, the amenity of adjoining properties, and the Cammeray Neighbourhood. The proposal also remains consistent with the objectives of the R2 Low Density Residential zone and the original reasons for granting consent. The proposal was found to be acceptable in the site circumstances and it is recommended that the subject Section 4.55(2) application be **approved**.

How community views were taken into account:

The subject application was notified to adjoining properties and the Parks Precinct Committee seeking comment, and no submissions were received. Nevertheless, it is considered that the proposed modifications would not substantially alter the potential impacts in comparison to the approved development and would not cause any unreasonable impacts to the streetscape and/or adjoining properties.

The conditions attached to the original consent for Development Application No. **412/18** by endorsed date of **3 June 2019** still apply.

ADVISINGS

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

4 August 2023

DATE



Signature on behalf of consent authority
MIGUEL RIVERA
A/TEAM LEADER (ASSESSMENTS)