



Graphio AM
As Trustee for AMS Trust
3.04/56 Bowman Street
PYRMONT NSW 2009

D12/22
RB6 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 12/22/5 - APPROVAL**

Development Consent Number: 12/22

Land to which this applies: 96 Grasmere Road, Cremorne
Lot No.: 2, DP: 945430

Applicant: Graphio AM as Trustee for AMS Trust

Proposal: Modification to DA 12.2022.5, involving 'Modification of approved DA 12/22 including external and internal alterations, reduction in parapet roof, new internal lifts, landscaping and drainage changes, reduce rumpus level to clear sewer'

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. **12/22** and registered in Council's records as Application No. **12/22/5** relating to the land described as **96 Grasmere Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **7 June 2022**, has been determined in the following manner:

Modify Condition A1

Development in Accordance with Plans (S.4.55 Modifications)

A5 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, and where shown by annotations on the approved drawings.

| Plan No. | Revision/ Issue | Title | Drawn by | Dated | Received |
|----------|--------------------|-------------------------------|---------------------|----------|------------|
| DA-001 | Rev D | Project details | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-005 | Rev C | Site Analysis | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-010 | Rev G | Existing/demolition site plan | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-015 | Rev H | Proposed site plan | Become Architecture | 18.05.22 | 31.05.2022 |

| | | | | | |
|-------------|-------|--|---------------------|----------|------------|
| DA-099 | Rev K | Proposed lower ground plan | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-100 | Rev L | Proposed ground level plan | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-101 | Rev J | Proposed Level 01 plan | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-102 | Rev G | Proposed roof plan | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-400 | Rev G | Proposed building elevations | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-401 | Rev G | Proposed building elevations | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-420 | Rev J | Proposed building sections | Become Architecture | 18.05.22 | 31.05.2022 |
| DA-920 | Rev B | External finishes schedule | Become Architecture | 18.05.22 | 31.05.2022 |
| LA LP 01/03 | 03 | Landscape Plan - lower ground level and ground level | Black Beetle IK/GB | 18.05.22 | 31.05.2022 |
| LA LP 02/03 | 03 | Landscape Plan - level 1 - legend/notes/plant schedule | Black Beetle IK/GB | 18.05.22 | 31.05.2022 |
| 1/2 | - | Plan of Subdivision | Karl Robertson | 05.01.22 | 12.01.2022 |
| 2/2 | - | Plan of Subdivision | Karl Robertson | 05.01.22 | 12.01.2022 |

Except as modified as such on the following drawings for DA 12/22/2:

| Plan No. | Revision/ Issue | Title | Drawn by | Dated | Received |
|----------|-----------------|---------------|------------|------------|-----------|
| 1.00 | 1 | Site Plan | Graphio AM | 21.11.2022 | 6.12.2022 |
| 2.00 | 1 | Driveway Plan | Graphio AM | 21.11.2022 | 6.12.2022 |

Except as modified as such on the following drawings for DA 12/22/5:

| Plan No. | Revision/ Issue | Title | Drawn by | Dated | Received |
|------------|-----------------|------------------------------|------------|------------|------------|
| S4.55 1.00 | A | Site Plan | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 1.01 | A | Construction Management Plan | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 3.00 | A | Demolition Plan | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 4.00 | A | Basement Plan | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 5.00 | A | Ground Floor Plan | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 6.00 | A | First Floor Plan | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 7.00 | A | Roof Plan | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 8.00 | A | Sections | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 9.00 | A | Elevations | Graphio AM | 27.02.2023 | 22.03.2023 |
| S4.55 9.01 | A | Elevations Cont. | Graphio AM | 27.02.2023 | 22.03.2023 |

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

C. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE (AND ONGOING, WHERE INDICATED)

Amend Condition C23 to read

BASIX Certificate

C23 Delete words 'BASIX Certificate No. 1261873M' and insert words '**BASIX Certificate No. 1376330M**'

Insert Condition C25 to read

Amended Basement Plan - Timber Decking along Side Setbacks

C25. The timber decking on the side setbacks must be deleted and the approved landscaping works (as per DA12/22/2) shall be established in lieu of these decks. This is reflected in an annotation to *Plan S4.55 4.00, Revision A, Basement Plan, by Graphio AM, dated 27/02/23.*

No approval is granted or implied for the timber decking within the side setbacks.

Amended plans 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 amended plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity and to demonstrate compliance with Council's controls, namely the requirements for unbuilt upon area and landscaped area provision under the NSDCP 2013)

The development application has been assessed against the relevant planning instruments and policies, in particular the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013, and generally found to be satisfactory.

Reasons for Approval:

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposed development remains substantially the same as what was approved by DA 12/22. The proposed modifications are minor and relate to internal and external changes, with the addition of a lift to each dwelling and reconfiguration of the stairs which will improve internal residential amenity, reduction in height of the parapet by 120mm and alteration in size and location of the skylights. The minor changes: bathroom reconfiguration; stairs reconfiguration; reduction in size of rumpus room and extension to first floor balcony planter do not impact on adjoining properties and sufficient clearance from the sewer will be maintained. The extension of timber decking along the side setbacks is not supported as this results in a reduction of the approved landscaping. A condition will be imposed to delete this change.

Subject to conditions, there would be no unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposal. The works will generally be sympathetic to the overall design of the subject dwelling and the character of the Benelong Neighbourhood. As a result, the proposed works as conditioned will provide additional residential amenity without negatively impacting any neighbouring properties or the streetscape character of the immediate vicinity.

The proposed modifications are consistent with the reasons for the grant of development consent to the originally approved development and are considered to be acceptable. Having regard to the provisions of sections 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** subject to conditions.

How community views were taken into account:

The subject application was notified to adjoining properties and the Brightmore Precinct for 14 days and no submissions were received. Nevertheless, conditions of consent have been recommended to maintain residential amenity, ensure the works are safe for the community, and preserve the character of the dwellings within the Grasmere Road streetscape.

The conditions attached to the original consent for Development Application No. **12/22** by endorsed date of **7 June 2022** still apply.

ADVISINGS

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



17 August 2023

DATE

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