



Ms Marian Baird  
C/- Vaughan Milligan Development Consulting Pty Ltd  
PO Box 49  
NEWPORT NSW 2106

D23/22  
TH2 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 23/22/2 - APPROVAL**

---

**Development Consent Number:** 23/22

---

**Land to which this applies:** 21 Balls Head Road, Waverton  
Lot No.: 4, DP: 1062058

---

**Applicant:** Marian Baird

---

**Proposal:** Modification of consent for alterations and additions to a dwelling.

---

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. **23/22** and registered in Council's records as Application No. **23/22/2** relating to the land described as **21 Balls Head Road, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **1 August 2022**, has been determined in the following manner:

**A. Add Condition A3 as follows:**

**Development in accordance with Plans (s4.55 Amendments)**

A3. 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 on:

Plan No.	Issue Date	Title	Drawn by	Received
A2.1	03.01.24	Site / Roof Plan	Oak Constructions	29.01.2024
A2.2	03.01.24	Ground Floor Plan	Oak Constructions	29.01.2024
A2.3	03.01.24	First Floor Plan	Oak Constructions	29.01.2024
A3.1	03.01.24	Elevations	Oak Constructions	29.01.2024
A3.2	03.01.24	Elevations	Oak Constructions	29.01.2024
A3.3	03.01.24	Sections	Oak Constructions	29.01.2024

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 Infrastructure)

**B. Modify Condition C16 as follows:**

**BASIX Certificate**

C16. 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. **A1374494\_03** 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 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 are consistent with the reasons for the grant of development consent to the originally approved development and is considered to be acceptable.

The rear extension would remain generally compliant with key development controls including the maximum building height and site coverage controls and does not impact upon the amenity of neighbouring properties. The rear extension and timber deck would have a marginal reduction in landscaping but the objectives in s1.5.6 of NSDCP 2013 continue to be met.

**Reasons for Approval:**

The proposed dormer generally complies with the objective and provisions in s1.4.11 of NSDCP 2013 appropriate to the building and roof form to which it is attached.

The bulk and scale of the proposal is acceptable maintaining a low density dwelling consistent with the desired built form of development in the Waverton Neighbourhood character statement.

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 subject application was notified to adjoining properties and Waverton Precinct inviting comment between 12 January 2024 and 26 January 2024. There were no submissions following notification of the modification application.

The conditions attached to the original consent for Development Application No. **23/22** by endorsed date of **1 August 2022** 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**

**27 March 2024**

DATE

*Thomas Holman*

Signature on behalf of consent authority  
THOMAS HOLMAN  
**SENIOR ASSESSMENT OFFICER**