

Original signed by: Robyn Pearson Dated: 25/9/2018

Development Consent No. 449/15

Section 4.55 Application

Applicant's Name

MSB Design Pty Ltd

Land to which this applies

174C Kurraba Road, Neutral Bay
Lot No. C, DP 412459

Proposal

Alterations and additions to an existing dwelling – minor changes to the plans.

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. **449/15** and registered in Council's records as Application No. **449/15/3** relating to the land described as **174C Kurraba Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 1 March 2016, has been determined in the following manner:

- (a) **Condition Nos. A1 and C8 to be modified to accommodate the changes to the plans.**

Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. 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.	Date	Drawn By	Received
A01	7 December 2015	MSB Design Pty Ltd	8 December 2015
A02	7 December 2015	MSB Design Pty Ltd	8 December 2015
A03	7 December 2015	MSB Design Pty Ltd	8 December 2015
A04	7 December 2015	MSB Design Pty Ltd	8 December 2015
A07	7 December 2015	MSB Design Pty Ltd	8 December 2015

As amended by the following plans:

Plan No.	Date	Drawn By	Received
A01 - Rev C	7 December 2015	MSB Design Pty Ltd	4 June 2018
A02 - Rev C	7 December 2015	MSB Design Pty Ltd	4 June 2018
A03 - Rev D	7 December 2015	MSB Design Pty Ltd	21 August 2018
A04 - Rev D	7 December 2015	MSB Design Pty Ltd	21 August 2018
A07 - Rev D	7 December 2015	MSB Design Pty Ltd	21 August 2018

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

BASIX Certificate

C8 Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 268836_02 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)

(b) New Conditions are imposed to preserve residential amenity as follows:

Use of Boatshed

II The boatshed must only be used for marine purposes (i.e. the storage, maintenance of boats and other marine associated activities) not for habitable purposes.

(Reason: To maintain the residential amenity of adjoining properties)

Reason for approval

The original proposal was considered to be satisfactory because the works would improve the amenity of the existing residents without causing an impact upon neighbouring amenity nor any detrimental impact upon the significance of Sydney Harbour. It was also concluded that there would be no detrimental upon the adjoining heritage item at No. 174B Kurraba Road. Following a detailed assessment of the proposed changes to the plans, it is concluded that the modifications would not offend the original reasons for approval.

How were community views taken into account in making the decision

The proposed changes to the plans were notified to adjoining residents but there were no submissions. Further conditions of consent have been imposed to take into account any likely concerns from the community.

The conditions attached to the original consent for Development Application No. 449/15 by endorsed date of 1 March 2016 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robyn Pearson**. 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (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 Certifying Authority 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 & 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 & Assessment Act.

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)