

Original signed by: Robyn Pearson Dated: 21/9/2018.

Development Consent No. 5/16

Section 4.55 Application

Applicant's Name

Lorraine Kay

Land to which this applies

46 Jeffreys Street, Kirribilli
Lot No.: C, DP: 377418

Proposal

Section 4.55 (2) modifications to the roof of the approved rear addition.

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. **5/16** and registered in Council's records as Application No. **5/16/3** relating to the land described as **46 Jeffreys Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 July 2016, has been determined in the following manner:

1. To modify Conditions A1 as follows:

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the following drawings:

Plan No.	Date	Drawn by	Received
A01 F	9 February 2017	MSB Design	9 February 2017
A03 F	9 February 2017	MSB Design	9 February 2017
A04 F	9 February 2017	MSB Design	9 February 2017
A05 F	9 February 2017	MSB Design	9 February 2017
A06 F	9 February 2017	MSB Design	9 February 2017

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D5/16/3:

Plan No.	Date	Drawn by	Received
A-01	May 2018	Nicolas Horiatopoulos	7 August 2018
A-05	May 2018	Nicolas Horiatopoulos	7 August 2018
A-06	May 2018	Nicolas Horiatopoulos	7 August 2018
A-07	May 2018	Nicolas Horiatopoulos	7 August 2018

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

2. To insert new conditions nos. A5 and D3 as follows:

Terms of Consent (D5/16/3)

A5. Approval is granted for modifications to to the roof of the approved addition to include the re-construction of the roof above the dining area to match the pitch of the roof of the approved rear addition, as shown on the following drawings.

Plan No.	Date	Drawn by	Received
A-01	May 2018	Nicolas Horiatopoulos	7 August 2018
A-05	May 2018	Nicolas Horiatopoulos	7 August 2018
A-06	May 2018	Nicolas Horiatopoulos	7 August 2018
A-07	May 2018	Nicolas Horiatopoulos	7 August 2018

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear.)

Commencement of Work Notice (D5/16/3)

D3. Demolition and/or building works in accordance with the approved modified development (**D5/16/3**) must not commence until the developer has given at least 5 working days notice to North Sydney Council and the adjoining property owners of Nos. 44 and 48 Jeffreys Street of the person's intention to commence building works/demolition in accordance with this development consent.

(Reason: To ensure notification to the owners of the adjoining properties and appropriate safe guard measures in place prior to the commencement of any building/demolition works.)

Reason for approval

The proposed modifications satisfy the provisions of Section 4.55 (2) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

The proposed modifications, as amended by the applicant, would have no adverse impacts in terms of height, bulk and scale of the approved development having regard to design of the roof over the approved addition. The proposed modifications would not cause material impacts on the amenity of the adjoining properties.

Council's Conservation Planner has raised no objection to the proposed modifications.

The issues raised in the submission received have been addressed by way of the amended plans and/or additional conditions of consent.

In summary, the proposed modifications were found to be acceptable in the site circumstances and is recommended that the subject Section 4.55 (2) application be approved.

How were community views taken into account in making the decision

The views of the community have been taken into account in the consideration of the application including the notification of the original S4.55 proposal to the adjoining properties and the Bradfield Precinct between 22 June 2018 and 6 July 2018 as well as the notification of the amended proposal to the submitters between 8 and 23 August 2018. The issues raised in the submissions received by Council have been addressed in the assessment of the application including the imposition of appropriate site specific conditions.

The conditions attached to the original consent for Development Application No. 5/16 by endorsed date of 6 July 2016 still apply.

ADVISINGS

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