

Development Consent No. 227/17

Section 4.55 Application

Applicant's Name

Vergome Pty Ltd

Land to which this applies

12-14 Lower Wycombe Road, Neutral Bay
Lot No.: 8, DP: 3183

Proposal

A Section 4.55(2) application to modify 227/17 with regards to various window changes, internal and floor level changes to dwelling 3 and a change to the front fence.

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. **227/17** and registered in Council's records as Application No. **227/17/3** relating to the land described as **12014 Lower Wycombe Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 October 2018, has been determined in the following manner:

Modify Conditions A4, C18, C21 as follows:

Development in Accordance with Plans

- A4. 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 modification No. 227/17/2:

Drawing Number	Revision/Issue	Title	Drawn by	Dated
000	02	Cover Sheet	Arcadia	13/06/18
101	02	Landscape Master Plan	Arcadia	13/06/18

Except as amended by those areas clouded in red on:

Drawing Number	Revision	Title	Drawn by	Dated
DA_02	K	Proposed Ground Floor Plan	Bennett Murada Architects	17/10/18
DA_03	J	Proposed First Floor Plan	Bennett Murada Architects	17/10/18
DA_05	I	Proposed Site and Roof Plan	Bennett Murada Architects	15/08/18
DA_06	K	Proposed East and West Elevations	Bennett Murada Architects	17/10/18

DA_07	K	Proposed North and South Elevations	Bennett Murada Architects	17/10/18
DA_08	K	Proposed Sections AA + BB	Bennett Murada Architects	1/11/18
DA_09	K	Proposed Sections CC, DD, EE and FF	Bennett Murada Architects	1/11/18

Or except as amended by other conditions of this consent.

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

Privacy

C18. The following privacy devices are to be provided:

- a) The northern first floor study windows (W26 of dwelling 2 and W23 of dwelling 1) must be fixed and fitted with obscure glass.
- b) The louvres attached to the western first floor study window (W24) must be fixed and angled in such a manner to prevent overlooking of the rear private open space of No. 10 Lower Wycombe Road.

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 an adequate level of privacy is provided with the private open space of the new dwelling on the site and with the rear private open space of No. 10 Lower Wycombe Road)

BASIX Certificate

C21. 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. (A277499_04, A276686_04 and 808438S_05) 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)

Add Condition C23 as follows:

Front Boundary Fence

C23 The new front boundary brick wall (Lower Wycombe Road) is to be amended as follows:

- c) The front boundary brick wall to be more than 110 mm higher than the front boundary wall height at 10 Lower Wycombe Road,
- d) A painted timber picket fence above to a maximum height of 600 mm above the top of the brick wall.
- e) The timber posts to the timber picket fence may be to a maximum height of 700 mm above the top of the brick wall.

The Certifying Authority must also 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 be sympathetic to the front boundary fences of the adjacent properties and the character of the conservation area.)”

Reason for approval

The proposal does not seek a change to the approved building height, roof form or setbacks of the dwellings. The amended plans have included fixed louvres to the new first floor western window of dwelling 1 to maintain a reasonable level of privacy with the adjoining property at No. 10 Lower Wycombe Road.

Council’s Conservation Planner has recommended a condition requiring the lowering of the front wall to Lower Wycombe Road to maintain the streetscape character.

How were community views taken into account in making the decision

The issues raised in the submissions were considered in the assessment of the application and, where appropriate, conditions were imposed to maintain privacy for the adjoining properties.

The conditions attached to the original consent for Development Application No. 227/17 by endorsed date of 3 October 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Luke Donovan**. 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
DAVID HOY
TEAM LEADER (ASSESSMENTS)