

Original signed by: Robyn Pearson Dated: 7/1/2019

## Development Consent No. 409/12

### Section 4.55 Application

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#### Applicant's Name

Brian Elbayeh

#### Land to which this applies

16 Laycock Street, Neutral Bay  
Lot No. A, DP 401785

#### Proposal

Section 4.55 (2) modifications to D409/12 including design changes to the roof of the approved rear addition and the retention of an existing carport at the rear of the subject site.

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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. **409/12** and registered in Council's records as Application No. **409/12/4** relating to the land described as **16 Laycock Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 28 February 2013, has been determined in the following manner:

*1. To modify Conditions A1 and E7 as follows:*

#### **Development in Accordance with Plans (S4.55 Amendments)**

- A1. The development being carried out in accordance with the following drawings numbered 200725A A2.01 to A2.04 drawn by Building Design and Technology, dated November 2012 and received by Council on 27 November 2012, and drawings numbered 200725A A2.05 and A2.06 drawn by Building Design and Technology, dated February 2012 and received by Council on 22 February 2013, and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D409/17/4:

Plan No.	Rev	Date	Drawn by	Received
A1.01	A	29.10.18	Cornerstone Creations	13 November 2018
A1.02	A	29.10.18	Cornerstone Creations	13 November 2018
A1.03	A	29.10.18	Cornerstone Creations	13 November 2018

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

### **Council Inspection of Public Infrastructure Works**

E7. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points: -

a) Drainage connection

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

2. *Deletion of Condition C9 (Driveway Crossing and associated works permit)*

3. *To insert new conditions nos. A4 and G3 as follows:*

#### **Terms of Consent (D409/12/4)**

A4. Approval is granted for the following works as shown on drawings numbered A1.01 Rev A, A1.02 Rev A, A1.03 Rev A, dated 29.10.18, prepared by Cornerstone Creations and received by Council on 13 November 2018 as follows:

(a) Retention of the existing carport at the rear of the property including the existing planter and ground treatments within the rear yard to the south of the existing single carport; and

(b) An increase in the height of the skillion roof over the approved rear deck to match the height of the rear gutter line of the adjoining semi-detached dwelling at No.14 Laycock Street.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property, including any modifications to the approved 1.6m high privacy screens on the northern and southern edges of the approved rear deck to the ground floor living area and the extended driveway area within the rear yard to the south of the existing driveway.

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

### **Compliance with Certain Conditions**

G3. Prior to issue of any Occupation Certificate, the scope of works as detailed in Condition A4 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent.)

### **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 proposal modifications would have no adverse impacts in terms of height, bulk and scale of the approved development.

The proposed modifications would not cause material impacts on the amenity of the adjoining properties in terms of the loss of significant views, solar access and privacy.

The proposed modifications would comply with DCP's site coverage/unbuilt upon area and landscape area requirements due to the retention of the existing carport.

In summary, the proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved with modifications to the relevant conditions.

### **How were community views taken into account in making the decision**

The adjoining properties were notified about the proposed development for the period between 5 – 19 December 2018. The notification has resulted in no submissions.

The conditions attached to the original consent for Development Application No.409/12 by endorsed date of 28 February 2013 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.

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DATE

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