

Development Consent No. 235/18

Section 4.55 Application

Applicant's Name

Harminder Pal Singh

Land to which this applies

10 Bray Street, North Sydney
Lot No.: 1, DP: 949029

Proposal

Section 4.55(2) modification to DA235/18 for minor alterations to the approved development.

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. **235/18** and registered in Council's records as Application No. **235/18/2** relating to the land described as **10 Bray Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 31 October 2018, has been determined in the following manner:

- To modify the development consent (D235/18) and modify condition A1 to include the revised plans:**

Development in Accordance with Plans (S 4.55 Amendments)

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

Drawing Number	Revision	Title	Drawn by	Dated
DA.00	B	Finishes Schedule	Sarah Blacker Architect	07/09/2018
DA.02	B	Site Plan	Sarah Blacker Architect	07/09/2018
DA.05	B	Proposed Ground Plan	Sarah Blacker Architect	07/09/2018
DA.06	B	Proposed Level One Plan	Sarah Blacker Architect	07/09/2018
DA.07	B	Front Elevation Rear Elevation	Sarah Blacker Architect	07/09/2018
DA.07A	B	Rear Street Elevation	Sarah Blacker Architect	07/09/2018
DA.08	B	Side Elevations	Sarah Blacker Architect	07/09/2018
DA.09	B	Section AA	Sarah Blacker Architect	07/09/2018

and endorsed with Council's approval stamp, except as modified and highlighted as such in a blue colour on the following drawings for D235/18/2:

Drawing Number	Revision	Title	Drawn by	Dated
DA.02	A	Site + Roof Plan	Sarah Blacker Architect	24/01/2019
DA.05	A	Proposed Ground Plan	Sarah Blacker Architect	24/01/2019
A.07	A	Front Elevation Rear Elevation	Sarah Blacker Architect	24/01/2019
DA.08	A	Side Elevations	Sarah Blacker Architect	24/01/2019

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

2. To insert new condition no. A5 as follows:

Terms of Consent (D235/18/2)

A5. Approval is granted for the following works coloured blue on the drawings listed in Condition A1 above.

1. Approved steel staircase to be widened from 1300mm diameter to 1500mm diameter.
2. Approved bi-fold windows (W3) at the rear of the dwelling to become bi-fold doors, with an associated change to the internal kitchen layout.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property, including lightweight vertical cladding to the rear of the dwelling.

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

3. To modify condition no. C9 as follows:

BASIX Certificate

C9. 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. A321657_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)

Reason for approval

This application which seeks minor amendments to the approved development at 10 Bray Street, Neutral Bay, satisfies the provisions of Section 4.55(2) in that the proposed development is substantially the same as what was approved under DA 235/18, and the proposed modifications will not alter the use or the form of the development as originally approved.

The proposed modifications would not materially change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013, and compliance with site coverage and landscaped area requirements would still be achieved. There would be no undue impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains consistent with the objectives of the R2 (Low Density Residential) Zone, and the reasons for granting consent originally.

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 proposal was notified and advertised in accordance with Part A, *Section 4 Notification of Applications* of North Sydney DCP 2013. No submissions were received. Nonetheless, amenity impacts have been considered in the assessment of this application and are reasonable. It is also noted that conditions were imposed on the original consent to preserve residential amenity.

The conditions attached to the original consent for Development Application No. 235/18 by endorsed date of 31 October 2018 still apply.

ADVISINGS

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