

Development Consent No. 205/16

Section 4.55 Application

Applicant's Name

Highbury Kirribilli

Land to which this applies

26 Waruda Street, Kirribilli
Lot No.: 1, DP: 1245650

Proposal

Demolition and construction of 5 storey residential flat building - modification to include glass awning over external staircase.

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. **205/16** and registered in Council's records as Application No. **205/16/2** relating to the land described as **26 Waruda Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 September 2016, has been determined in the following manner:

- 1. An amendment to condition A1 concerned with the previously 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.	Issue	Title	Drawn by	Received
DA-010	C	Site plan and site analysis plan	Squillace	11/08/16
DA-099	D	Basement	Squillace	25/08/16
DA-100	C	Ground floor	Squillace	26/05/16
DA-101	C	Level 1	Squillace	26/05/16
DA-102	C	Level 2	Squillace	26/05/16
DA-103	C	Level 3	Squillace	26/05/16

DA-104	C	Level 4	Squillace	26/05/16
DA-105	C	Roof	Squillace	26/05/16
DA-200	C	Short Elevations	Squillace	26/05/16
DA-201	C	North West Elevation	Squillace	26/05/16
DA-202	C	South East Elevation	Squillace	26/05/16
DA-300	C	Sections 1	Squillace	26/05/16
DA-301	C	Sections 2	Squillace	26/05/16
LPDA 16 – 454/1 – 454/3	C	Landscape Plan, Details and Specifications	Concept Landscape Architects	30/05/16, 31/05/16

As amended by the following plans:

Drawing Number	Revision	Title	Drawn by	Dated
DA-104	D	Level 4	Squillace	4/10/18
DA-105	D	Roof	Squillace	4/10/18
DA-200	D	Short Elevations	Squillace	4/10/18
DA-201	D	North West Elevation	Squillace	4/10/18
DA-202	D	South East Elevation	Squillace	4/10/18

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

Reason for approval

The modification to the original plans was assessed against the North Sydney Local Environmental Plan 2013, the North Sydney Development Control Plan 2013 and the relevant State and Regional Planning Policies and generally found to be acceptable.

The proposed glass awning would not offend the above reasons for approval given that it would be a simple structure located well above eye level and setback off the front boundary (14m) to reduce its visibility. Its relatively modest size (17m²) would not create any unnecessary bulk and scale and its transparency would also minimise its visual impact. Consequently, the proposal is acceptable in the site circumstances.

However, the glass awning would not comply with the building height plane which is considered to be acceptable because there would be no impacts arising from this change and the side setback has been previously approved by NSIPP.

Having regard to the provisions of Section 4.55 of the Environmental Planning & Assessment Act 1979, the proposed glass awning is considered to be satisfactory and recommended for **approval** subject to the proposed modification to the conditions of consent in particular A1 concerned with the approved plans.

How were community views taken into account in making the decision

The community were notified of the proposal but Council did not receive any submissions opposed to the proposal. Furthermore, conditions of consent were imposed with the original approval to preserve neighbour amenity.

The conditions attached to the original consent for Development Application No. 205/16 by endorsed date of 7 September 2016 still apply.

ADVISINGS

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