

**Original signed by: David Hoy Dated: 13/5/2019.**

A Plus Group Pty Ltd  
Suite 102, 16-28 Foster Street  
SURRY HILLS NSW 2010

DWH(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 (2) MODIFICATION 115/11/4 – APPROVAL**

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**Development Consent Number:** 115/11

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**Land to which this applies:** 106 Kirribilli Avenue, Kirribilli  
Lot No. 7, DP 1219161

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**Applicant:** A Plus Group Pty Ltd

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**Proposal:** Modification to DA 115/11 pursuant to S 4.55(2) including modifications proposing internal changes to basement layout and uses; changes to car parking allocation and storage; landscape changes; fence and pedestrian entry change; changes to stormwater arrangements; front balustrade change and installation of an external access ladder to rear of building for building maintenance.

At its meeting of 8 May 2019, the **Sydney North Planning Panel (SNPP)**, as the consent authority, considered 2019SNH018 DA North Sydney – Section 4.55 Application No. **115/11/4**.

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. **115/11** and registered in Council's records as Application No. **115/11/4** relating to the land described as **106 Kirribilli Avenue, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 8 May 2019, has been determined in the following manner: -

**1. Condition A1 of the consent is to be modified to read as follows:**

**Development in Accordance with Plans**

A1. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

<b>Dwg No</b>	<b>Rev</b>	<b>Description</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received</b>
S96.0100	D	Site & Roof Plan	Redgen Mathieson	3.12.18	11.12.18
S96.0200	A	Site Analysis Plan	Redgen Mathieson	22.09.16	26.09.16
S96.10B1	F	Basement 01 Plan	Redgen Mathieson	3.12.18	11.12.18
S96.10B2	C	Basement 02 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1001	C	Level 01 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1002	C	Level 02 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1003	E	Level 03 Plan	Redgen Mathieson	3.12.18	26.09.16
S96.1004	C	Level 04 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1005	C	Level 05 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1006	C	Level 06 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1007	D	Roof Plan	Redgen Mathieson	21.08.18	28-09-18
S96.2001	B	Street Elevation	Redgen Mathieson	5.06.18	28-09-18
S96.2002	B	East Elevation	Redgen Mathieson	5.06.18	28-09-18
S96.2003	E	North Elevation	Redgen Mathieson	3.12.18	11.12.18
S96.2004	D	West Elevation	Redgen Mathieson	3.12.18	11.12.18
S96.3001	B	Sections A	Redgen Mathieson	5.06.18	28-09-18
S96.3002	D	Sections B	Redgen Mathieson	3.12.18	11.12.18
S96.3003	D	Sections C	Redgen Mathieson	3.12.18	11.12.18
S96.5001	B	Western Glazing Details	Redgen Mathieson	5.06.18	28-09-18
S96.5002	A	L6 Planter detail	Redgen Mathieson	22.09.16	26.09.16
S96.5004	A	Typical Balustrade Detail	Redgen Mathieson	15.11.18	16-11-18
S96-01	A	Level 1 Landscape Plan	Secret Gardens	13.6.18	28.9.18
S96-02	A	Level 2 Landscape Plan	Secret Gardens	13.6.18	28.9.18
S96-03	A	Level 3 Landscape Plan	Secret Gardens	13.6.18	28.9.18
S96-04	A	Level 6 Landscape Plan	Secret Gardens	13.6.18	28.9.18
S96-05	A	Landscape Schedule & Notes	Secret Gardens	13.6.18	28.9.18

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

- 1. That Condition A20 be imposed to delete the proposed roof access ladder showing he the northern elevation of the building. Condition A20 is imposed as follows:**

**Delete proposed roof access ladder**

A20. The roof access ladder shown on the proposed amended northern elevation is to be deleted as the visual impact of the proposed roof access ladder is considered to be unacceptable and would compromise the architectural quality of the northern elevation of the building.

(Reasons:

- i. The proposed roof access ladder does not comply with the height standard, would protrude 1.0m above the roof level and would be visible to adjoining properties to the immediate north and north-east.
- ii. The proposed access ladder is not considered to be necessary to enable external access to the roof form maintenance purposes as reasonable alternative means of access are available from the Level 6 roof terrace, utilizing relocatable ladder anchor points above the balcony to the unit on Level 6 and harness access.
- iii. Access from the Level 6 Terrace is considered reasonable for maintenance purposes, as the need for access would be limited to short periods only, is related to general building maintenance and would involve no greater imposition that access requirements for landscape maintenance).

- 2. Condition A3 is amended to read as follows:**

**Amended Landscaping Plan**

A3. The landscape plans prepared by landscape plans numbered s96-01, s96-02 s96-03 s96- 04 s96-05, prepared by Secret Gardens dated May 2018 identified in Condition A1 must be implemented and landscaping maintained to reflect the following:

**Green Roof Species selection to be amended to reflect the following:**

- The nominated species shown in the Level 6 planter is to be consistent with the species shown nominated in the approved landscape plan and must achieve a maximum height at maturity of 300mm above the approved parapet height of RL 39.06 as shown on the L6 planter detail drawing identified in Condition A1;
- The plantings to the roof top must be maintained so as to not exceed 300mm in height above the planter parapet height of RL 39.06.

**Replacement screen planting to northern boundary**

- The three replacement Crepe Myrtles shown adjacent to the norther (rear) boundary must be shown to be advanced growth specimens with a minimum pot size of 400L.

The amended landscape plan must be approved by the Certifying Authority as being in accordance with the requirements of this condition prior to the issue of the Construction Certificate. The landscaping shown on the amended landscape plan must be implemented in accordance with the approved drawings and plants maintained at the nominated mature height on an ongoing basis.

(Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development)

**3. Condition A9 is amended to read as follows:**

**External Finishes and Materials**

A9. The colour and type of all external materials shall be in accordance with the submitted schedule, dated September 2016, prepared by Redgen Mathieson and received at Council on 26 September 2016, except where modified by the balustrade details showing on drawings numbered S96.5004 (Rev A) "Typical Balustrade Detail" prepared by Redgen Mathieson, dated 15.11.18 and except where amended by the following conditions of consent.

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

**4. Conditions A12 & A13 are deleted.**

**5. Conditions C13(a) & C13(b) are amended to reflect the Stormwater Plans prepared by AJ Wipps dated Aug 2017, except where amended by any permit issued by Council's Development Engineer under S.138 of the *Roads Act, 1993*.**

**6. Condition C29 is amended to read as follows:**

**BASIX Certificate**

C29. 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. 911800M-02 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)

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**Reason for approval:** The proposed modification as amended by conditions is consistent with the stated reasons for the original approval.

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The subject modification has been notified with owners of adjoining properties and the Bradfield Precinct notified of the proposed development on and submissions accepted up to 4 November 2016.

**How community views were taken into account:** In response a total of our (4) submissions have been received in objection to the proposal raising issues with regard to further views and visual impact arising from the proposed amendments. The issues raised in the submission were not considered to be well founded or demonstrate any additional adverse impacts would arise as a result of the proposed modifications.

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The conditions attached to the original consent for Development Application No. 115/11 by endorsed date of 15 December 2011 still apply.

#### **ADVISINGS**

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

**Endorsed for and on behalf of North Sydney Council**

\_\_\_\_\_  
DATE

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Signature on behalf of consent authority  
DAVID HOY  
**A/MANAGER DEVELOPMENT SERVICES**