

Suttor Architects Pty Ltd
PO Box 93
WAVERLEY NSW 2024

D401/17
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 401/17/2 – APPROVAL**

Development Consent Number: 401/17/2

Land to which this applies: 19 Elamang Avenue, Kirribilli
Lot No.: 28, DP: 4313

Applicant: Suttor Architects Pty Ltd

Proposal: A Section 4.55 (2) application to modify DA401/17 in regard to internal and external changes including additional excavation at lower floor levels

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. **401/17** and registered in Council's records as Application No. **401/17/2** relating to the land described as **19 Elamang Avenue, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 19 April 2019, has been determined in the following manner: -

- 1. Delete Condition C17(b), C17(c), C20(a), C21 and C22 as the changes required by these conditions are reflected on the plans that form part of additional Condition A4.*
- 2. Modify Condition C6, C17, C19, C23 and G8 as follows:*

Geotechnical Report

- C6. The recommendations made within the Geotechnical Investigation Report prepared by Douglas Partners dated June 2019 must be complied with at all times.

Building plans and specifications submitted for approval with any construction certificate application must comply with the recommendations made in the report.

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 structural integrity of the subject site and adjoining sites during the excavation process)

Privacy

C17. The following privacy devices are to be provided:

- a) The eastern bedroom 4 window (GF 01) must have a privacy screen attached to the bottom half of this window similar to eastern bedroom 3 and shower 3 windows (GF02, GF03 and GF04)
- b) There are no be no changes to the size of the approved eastern first floor kitchen window (FF03)

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 amenity is provided to adjoining property located at No. 17 Elamang Avenue, Kirribilli).

BASIX Certificate

C19. 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. 875520S_2, except as amended, 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)

Kerb and grass verge

C23. The redundant part of layback crossing must be reinstated as kerb gutter and grass verge for a width of 2m as indicated on the Site Plan that forms part of Condition A1 of this consent. The "no stopping" sign must be relocated a further 2m to the left edge of the new layback.

The kerb and gutter must be constructed in accordance with Council's current Vehicular Access Applications and Guidelines.

The Certifying Authority issuing the Construction Certificate must ensure that this detail is referenced on and accompanies the issued Construction Certificate.

(Reason: To maintain Council's infrastructure)

Compliance with Certain conditions

G8. Prior to the issue of any Occupation Certificate, Conditions C17 and C23 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)

3. Add Condition A4 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 the modifications shown in colour on:

Drawing Number	Revision	Title	Drawn by	Dated
DA01	D	Site Plan	Michael Suttor Architects	23/07/19
DA02	D	First and Ground Floor Plans	Michael Suttor Architects	23/07/19
DA03	D	Lower Ground and Foundation Floor Plans	Michael Suttor Architects	23/07/19
DA04	D	Elevations	Michael Suttor Architects	23/07/19
DA05	D	Sections	Michael Suttor Architects	23/07/19

except as amended by the following conditions and this consent.

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

Reason for approval:

The proposed modifications do not materially alter the building envelope. The changes to the window openings are generally acceptable with the exception of the enlargement of the first floor eastern kitchen window (FF03) as this has the potential to generate additional overlooking of the adjoining property at No. 17 Elamang Avenue. It is recommended that this window remain unchanged.

A number of the amendments relate to satisfying conditions of consent. The amendments as required by these conditions are reflected on these architectural plans which will form part of Condition A4 of this modified consent, therefore these conditions may be deleted.

The application proposes additional excavation at the ground and foundation floor levels to accommodate AC plant room, garden store, irrigation tank, shower room and lift extension. The additional excavation is located within the approved building footprint and subject to following the recommendations of the revised Geotechnical report prepared by Douglas Partners dated June 2019 is unlikely to adversely impact the environment or amenity of adjoining properties.

The conditions attached to the original consent for Development Application No. 401/17 by endorsed date of 19 April 2019 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.
- (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

Signature on behalf of consent authority
LUKE DONOVAN
SENIOR ASSESSMENT OFFICER