

Original signed by: Robyn Pearson Dated: 23/9/2019.

David and Margaret Kindl
C/- Anna Vaughan Architects
6/13-15 Smail Street
ULTIMO NSW 2007

D144/18
RT(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 144/18/2 – APPROVAL**

Development Consent Number: 144/18/2

Land to which this applies: 64 Carabella Street, Kirribilli
Lot No.: 34, Section. B, DP: 1537

Applicant: David and Margaret Kindl, C/- Anna Vaughan Architects

Proposal: Section 4.55(2) modifications to D144/18 for various modifications 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. **144/18** and registered in Council's records as Application No. **144/18/2** relating to the land described as **64 Carabella Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 September 2018, has been determined in the following manner: -

- 1. To modify the development consent (D144/18) and modify conditions A1 and C12 to read as follows:*

Development in Accordance with Plans (S4.55 Amendments)

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

Drawing No.	Issue	Date	Drawn	Received
A01	F	28.09.18	Anna Vaughan Architects	8 October 2018
A02	B	10.08.18	Anna Vaughan Architects	8 October 2018
A03	C	19.09.18	Anna Vaughan Architects	8 October 2018
A04	B	10.08.18	Anna Vaughan Architects	8 October 2018
A05	B	10.08.18	Anna Vaughan Architects	8 October 2018
A06	B	10.08.18	Anna Vaughan Architects	8 October 2018
A07	B	10.08.18	Anna Vaughan Architects	8 October 2018

A08	F	10.08.18	Anna Vaughan Architects	8 October 2018
A09	J	28.09.18	Anna Vaughan Architects	8 October 2018
A10	I	28.09.18	Anna Vaughan Architects	8 October 2018
A11	D	10.08.18	Anna Vaughan Architects	8 October 2018
A12	G	19.09.18	Anna Vaughan Architects	8 October 2018
A13	G	19.09.18	Anna Vaughan Architects	8 October 2018
A14	I	28.09.18	Anna Vaughan Architects	8 October 2018
A15	H	28.09.18	Anna Vaughan Architects	8 October 2018
A16	G	28.09.18	Anna Vaughan Architects	8 October 2018

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D144/18/2:

Drawing No.	Issue	Date	Drawn by	Received
A01	J	23.07.19	Anna Vaughan Architects	22 August 2019
A08	M	02.07.19	Anna Vaughan Architects	22 August 2019
A09	Q	02.07.19	Anna Vaughan Architects	22 August 2019
A10	R	23.07.19	Anna Vaughan Architects	22 August 2019
A11	G	02.07.19	Anna Vaughan Architects	22 August 2019
A12	J	02.07.19	Anna Vaughan Architects	22 August 2019
A13	J	02.07.19	Anna Vaughan Architects	22 August 2019
A14	M	23.07.19	Anna Vaughan Architects	22 August 2019
A15	L	23.07.19	Anna Vaughan Architects	22 August 2019
A16	K	02.07.19	Anna Vaughan Architects	22 August 2019
A21	K	02.07.19	Anna Vaughan Architects	22 August 2019
A22	G	24.05.19	Anna Vaughan Architects	22 August 2019
A23	H	02.07.19	Anna Vaughan Architects	22 August 2019

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

Roofing Materials - Reflectivity

- C12. Roofing materials, including the glazing for the proposed awning above the lift entrance on roof level, must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties.

Plans and specifications which comply 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 that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

2. To insert a new condition A4 to read as follows:

Terms of Consent (D144/18/2)

A4. Approval is granted for the following modifications only:

Ground Floor

- (a) Modification to the eastern garage wall for the relocation of a doorway to provide direct access from the ground floor dining/kitchen area of the main dwelling and associated changes to the planter;
- (b) Modification to the footprint of the lift shaft to accommodate the technical requirements of the lift;
- (c) A new doorway to connect the lift foyer and the garage;
- (d) Deletion of the storage area adjacent to the bike rack/storage room within the approved garage;
- (e) Relocation of the approved Bligh Street pedestrian entrance gate; and
- (f) Increase in the width of the vehicular entrance off Bligh Street by 400mm from 5.6m to 6m

First Floor

- (a) Modification to the footprint of the lift shaft to accommodate the technical requirements of the lift;
- (b) Construction of a new doorway to a new balcony off the existing rear bedroom within main dwelling; and
- (c) Repositioning of the doorway between the approved first floor living area and balcony.

Roof

- (a) Modifications to the footprint of the lift shaft and the lift overrun to accommodate the technical requirements of the lift;
- (b) A new cantilevered glass awning above the lift entrance;
- (c) Repositioning of one (1) solar panel and the addition of one (1) further solar panel on the roof of the approved rear addition; and
- (d) The addition of two (2) solar panels on the roof of the first floor bathroom/ensuite.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

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

Reason for approval:

The proposed modifications satisfy the provisions of Section 4.55 in that the proposed development is substantially the same as what was approved under DA 144/18 as the proposed modifications will not alter the use, scale and form of the development as originally approved.

The non-compliance with the LEP maximum building height is considered to be acceptable due to the minor nature of the change to the lift overrun and no material impacts on the character of the heritage item, the conservation area and the amenity of the adjoining properties.

The proposed modifications would have no adverse impacts in terms of height, bulk/scale and the amenity of the surrounding properties in terms of the loss of significant views, privacy and solar access.

The proposed modifications would not alter the size and configuration of the roof terrace as originally approved. The increase in site coverage is considered to be acceptable because of the minor nature of the change (0.5%) and the increase in soft landscaping and the reduction in un-built upon area.

The issues raised in the submissions received have been addressed in the assessment report.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55 application be approved with modifications to the relevant conditions

How community views were taken into account:

The adjoining properties and the Milson/Bradfield Precinct were notified about the proposed development for the period between 14 and 28 June 2019. The notification resulted in two (2) submissions from one (1) submitter. The issues raised in the submissions received have been addressed in the assessment report.

The conditions attached to the original consent for Development Application No. [File No] by endorsed date of 5 September 2018 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.

- (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
ROBYN PEARSON
TEAM LEADER(ASSESSMENTS)