

Original signed by: Robyn Pearson Dated: 18/10/2019

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D1/17
RT(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 1/17/2 – APPROVAL**

Development Consent Number: 1/17/2

Land to which this applies: 84 Shellcove Road, Neutral Bay
Lot No.'s: 0,1,2, SP 17704

Applicant: Leisa Galloway
C/- MM+ J Architects

Proposal: Section 4.55 (2) modifications to D1/17 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. **1/17** and registered in Council's records as Application No. **1/17/2** relating to the land described as **84 Shellcove Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 June 2017, has been determined in the following manner: -

- To modify the development consent (D1/17) and modify conditions A1, C1, C8, C19, C24 and G11 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 Number	Rev	Title	Drawn by	Dated
DA01	B	Site Plan	MM+J architects	28/04/17
DA02	B	Ground Floor	MM+J architects	28/04/17
DA03	B	First Floor and Lower Ground Floor	MM+J architects	28/04/17
DA04	B	Sections 01	MM+J architects	28/04/17
DA05	B	Sections 02	MM+J architects	28/04/17

DA06	C	East and West Elevations	MM+J architects	27/04/17
DA07	B	North and South Elevations	MM+J architects	28/04/17
DA08	B	Fence Elevations and Section	MM+J architects	28/04/17
DA09	B	Neighbour Elevations	MM+J architects	28/04/17

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D1/17/2:

Drawing No.	Issue	Date	Drawn by	Date
DA01	D	Site Plan	MM+J Architects	9/09/2019
DA02	D	Ground Floor Plan	MM+J Architects	9/09/2019
DA03	D	First Floor Plan	MM+J Architects	9/09/2019
DA04	D	Sections 01	MM+J Architects	9/09/2019
DA05	D	Sections 02	MM+J Architects	9/09/2019
DA06	E	East & West Elevations	MM+J Architects	9/09/2019
DA07	D	North & South Elevations	MM+J Architects	9/09/2019
DA08	D	Fence Elevations	MM+J Architects	9/09/2019

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

Heritage Requirements

C1. The following heritage requirements are to be documented on the drawings:

- (a) The posts to the new front entry, supports to new tiled awning structure and balustrade to first floor balcony on the eastern elevation must be constructed from timber.
- (b) The existing exposed brickwork on the original dwelling must not to be rendered or painted.
- (c) The new sandstone along the Shellcove Road boundary of the site must have a rock faced finish.
- (d) The existing original Federation style front door with the Art Nouveau leadlight is to be salvaged and reused on site.
- (e) New roof tiles are to match the existing roof tiles.
- (f) New verandah balustrade is to be constructed from timber.
- (g) New metal roof is to have a traditional corrugated roof profile equal to Custom Orb/ Custom Orb 35.
- (h) New windows and doors to Ground Level Hall 1 and Stairwell and the front of the building are to timber frames. New windows W4, doors D2 and new windows to garage are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber-framed.

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 be sympathetic to the character of the conservation area and the original dwelling.)

Colours, Finishes and Materials (Conservation Areas)

- C8. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the conservation area.

A schedule of finishes, materials and external colour for the entire development, including those as specified in Condition C1 in this consent, shall 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 fully satisfy the requirements of this condition prior to the release of the construction certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area.)

Landscaping (D1/17/2)

- C19. Soft landscaping must be provided to the side setback area between the ground floor paved area off the kitchen/dining area and the northern property boundary. Screen planting must be provided along the northern boundary of the site to match the depth of the abovementioned paved area and as marked in red on the stamped approved plans.

The required screen planting must consist of suitable screening species capable of attaining a mature height of 2-2.5 metres above finished ground levels.

Details of the screen planting required by this condition must be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the details submitted fully satisfy the requirements of this condition.

(Reason: To maintain the landscaped quality within the subject site and to preserve the privacy of adjoining properties.)

BASIX Certificate

C24. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all commitments listed in BASIX Certificate No. (A259438_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, 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.)

Required Planting

G11. The planting required by Condition C19 of this consent must be completed prior to the issue of any Occupation Certificate. The specified landscape elements must be provided and maintained in accordance with the requirements of this consent at all times.

(Reason: To maintain the landscape setting of the subject site and to ensure amenity for the neighbouring properties.)

2. *To insert a new conditions A4 and C25 to read as follows:*

Terms of Consent (D1/17/2)

A4. Approval is granted for the following modifications only:

Main dwelling/Garage:

- (a) Deletion of the approved roof over the stairwell and retention of the existing roof;
- (b) Deletion of the approved rear balcony off the ensuite bathroom on the western (rear) elevation;
- (c) Retention of the existing staircase connecting the ground and first floors;
- (d) Retention of study nook 1 on the ground floor and study nook 2 on the first floor;
- (e) Demolition of the eastern external wall of Hall 1 and construction of a new wall and window adjacent to the main dwelling entrance;
- (f) Reconfiguration of the internal layout of the dwelling entrance and Hall 1 to provide a new opening from the existing staircase;
- (g) Raise the roof above the approved ground floor verandah on the eastern (front) and northern elevations to match the height of the first floor level (RL70.44);
- (h) Installation of timber balustrades to the eastern (front) elevation of the verandah to replace the approved sandstone verandah;

- (i) Retention of the existing study nook 1 window on the northern elevation;
- (j) Replacement of the first floor study nook 2 frameless glass window on the northern elevation with timber framed window;
- (k) Retention and refurbishment of the ground floor bathroom;
- (l) Installation of new highlight windows on the northern elevation of the approved double garage at the rear;
- (m) Increase the width of the glazed sliding door opening on northern elevation off the ground floor new kitchen/dining area by 675mm;
- (n) Addition of a pergola with operable louvres over the terrace off the ground floor new kitchen and dining area; and
- (o) Deletion of approved solar panels on the roof over the approved rear addition between the main dwelling and the new double garage.

Other external works:

- (a) Deletion of the approved swimming pool and spa pool;
- (b) Replacement of the rear fence to Wycombe Road with timber paling fence to match existing with painted finish; and
- (c) Relocation of the approved bin storage area to a new location along the rear boundary rear to the north of the Wycombe Road pedestrian gate.

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.)

Garbage and Recycling Facilities

C25. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. 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 the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

3. To delete the following conditions:

- Condition C20 (Pool Access)**
- Condition C21 (Swimming Pool Water to Sewer)**
- Condition C22 (Pool Filter)**
- Condition G4 (Pool access)**
- Condition G5 (Pool Safety Requirements)**
- Condition I1 (Pool Filter)**

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 1/17 as the proposed modifications will not alter the use, scale and form of the development as originally approved.

The proposed modifications would not result in a further breach of the LEP maximum building height control. Furthermore, the proposal would result in a reduction in the non-compliance with site coverage due to the deletion of the proposed swimming/spa pools.

The proposed modifications would have no adverse impacts in terms of heritage significance of the subject dwelling and the conservation area, bulk/scale of the development and the amenity of the surrounding properties.

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 Bennett/Neutral Precincts were notified about the proposed development for the period between 20 September and 4 October 2019. The notification has attracted no submissions.

The conditions attached to the original consent for Development Application No. 1/17 by endorsed date of 13 June 2017 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)