

Original signed by: David Hoy Dated: 18/11/2019

Michael Pearse
26 Victoria Street
MCMAHONS POINT NSW 2060

D33/18
HS1(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 33/18/2 – APPROVAL**

Development Consent Number: 33/18/2

Land to which this applies: 26 Victoria Street, McMahons Point
Lot No.: 7, DP: 741891

Applicant: Michael Pearse

Proposal: Section 4.55 (1A) modifications to DA33/18 to modify alterations and additions to an existing dwelling within a conservation area.

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. **33/18** and registered in Council's records as Application No. **33/18/2** relating to the land described as **26 Victoria Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 18 July 2018, has been determined in the following manner: -

1. *To modify the development consent (D33/18) and modify conditions A1 as follows:*

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the Plans

Plan No	Issue	Title	Drawn By	Dated	Received
2161101/A01	D	Proposed Site Plan	Robertson & Hindmarsh Pty Ltd, Architects	26 May 2018	1 June 2018
2161101/A02	D	Proposed Ground Floor Plan	Robertson & Hindmarsh Pty Ltd, Architects	26 May 2018	1 June 2018
2161101/A03	C	Proposed First Floor Plan	Robertson & Hindmarsh Pty Ltd, Architects	26 May 2018	1 June 2018

2161101/A04	D	Proposed Roof Plan	Robertson & Hindmarsh Pty Ltd, Architects	26 May 2018	1 June 2018
2161101/A05	D	Proposed West & East Elevation	Robertson & Hindmarsh Pty Ltd, Architects	26 May 2018	1 June 2018
2161101/A06	D	Proposed North & South Elevations & Section A-A	Robertson & Hindmarsh Pty Ltd, Architects	26 May 2018	1 June 2018

As amended by the following plans:

Plan No	Issue	Title	Drawn By	Dated	Received
2161101/A01	H	Proposed Site Plan	Robertson & Hindmarsh Pty Ltd, Architects	4 December 2017	18 October 2019
2161101/A05	G	Proposed West & East Elevations	Robertson & Hindmarsh Pty Ltd, Architects	4 December 2017	18 October 2019

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

2. To insert the following conditions A5 and A6 as follows:

Terms of Consent (D33/18/2)

A5. Approval is granted for the following works as shown on drawings below:

Plan No	Issue	Title	Drawn By	Dated	Received
2161101/A01	H	Proposed Site Plan	Robertson & Hindmarsh Pty Ltd, Architects	4 December 2017	18 October 2019
2161101/A05	G	Proposed West & East Elevations	Robertson & Hindmarsh Pty Ltd, Architects	4 December 2017	18 October 2019

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.)

Heritage Design Specifications

A6. A gapped timber fence to match the Victoria Street facing fence is to be erected on top of the stone dwarf wall along the western boundary to a height of 1.8m.

The proposed screen on the western end of the existing front verandah is to be painted Dulux Caviar Black which matches the colour of the front fence of the property.

No landscaping is proposed to be removed along the western elevation.

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

The proposed modifications satisfy Section 4.55(1A) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

The proposed modifications would not result in significant changes to the form, bulk and scale of the approved development.

Reason for approval:

The proposed modifications to the rear and side of dwelling and would not cause adverse material amenity impacts on the adjoining properties in terms of visual privacy/amenity loss or overshadowing.

In summary, the proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1A) application be approved with modifications to the relevant conditions.

How community views were taken into account:

The development application was notified nor advertised pursuant to Part A, Section 4 of the North Sydney Development Control Plan 2013. The application was notified to the Union Precinct and adjoining properties from 20 September 2019 to 4 October 2019. One (1) submission was received during the notification period.

The conditions attached to the original consent for Development Application No. 33/18 by endorsed date of 18 July 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Hugh Shouldice**. 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
DAVID HOY
TEAM LEADER(ASSESSMENTS)