

Site Specific Designs  
11 Hill Street  
WARRIEWOOD NSW 2102

D386/09  
LH(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 386/09/3 – APPROVAL**

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**Development Consent Number:** 386/09/3

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**Land to which this applies:** 29 Churchill Crescent, Cammeray  
Lot No.: 74, DP: 19754

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**Applicant:** Site Specific Designs

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**Proposal:** To modify development Consent DA 386/09 for various modifications to approved development for a dwelling.

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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. **386/09** and registered in Council's records as Application No. **386/09/3** relating to the land described as **29 Churchill Crescent, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 22 March 2010, has been determined in the following manner: -

**1. To Modify Condition A1:**

**Development in Accordance with Plans**

A1. The development being carried out in accordance with drawings numbered DA01-DA12 (inclusive), dated 20/10/09, drawn by In and Out Architects Pty Ltd, and received by Council on 2 November 2009 and endorsed by Council's approval stamp, except as amended in highlighting as follows:-

- 1) Drawings titled 'Montage Image' including plan detailing approved house and 3 x plans detailing landscaping, all drawn by undated and dated 29 July 2011, Section drawing, unnumbered dated 20/10/2009 and drawn by In & Out Architecture Pty Ltd and Drawing DA10 (Section 96 Retaining walls application – new), undated and drawn by unknown. All plans received by Council on 1 August 2011. Drawing DA05A dated 20/10/2009 and prepared by In & Out Architecture Pty Ltd and received by Council on 1 August 2011.

- 2) Drawings as follows (only in so far as outlined in Condition A7 and G9):

<b>Plan</b>	<b>Rev</b>	<b>Title</b>	<b>Dated</b>	<b>Prepared by</b>	<b>Received</b>
DA01	C	Site and Roof	12/12/2019	Site Specific Designs	18/12/2019
DA02	C	Ground floor plan	12/12/2019	Site Specific Designs	18/12/2019
DA03	C	First Floor Plan	12/12/2019	Site Specific Designs	18/12/2019
DA04	C	Lower Ground Floor	12/12/2019	Site Specific Designs	18/12/2019
DA05	C	Basement and storage plans	12/12/2019	Site Specific Designs	18/12/2019
DA06	C	Section and Basix	12/12/2019	Site Specific Designs	18/12/2019
DA07	C	South West, North West (Street) elevation	12/12/2019	Site Specific Designs	18/12/2019
DA08	C	South East Elevation	12/12/2019	Site Specific Designs	18/12/2019
DA09	C	North East Elevation	12/12/2019	Site Specific Designs	18/12/2019

Except where amended by the following conditions.

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

**2. To add new Condition A7:**

**No approval for unauthorised physical works**

- A7. No approval is granted for any physical works that have been undertaken prior to the date of this consent, that are contrary to the approved plans set out in DA386/09 approved on 26/3/2010 and as modified under DA386/09/2 approved on 16/12/2011. Physical works includes but is not limited to, new building structures as well as excavation.

This development consent grants approval, only for the use of those building components set out in the approved plans under this modification application, and not for the physical works.

This approval is subject to the requirements of Condition G9 of this development consent.

(Reason: To clarify that this consent does not grant or imply retrospective approval for the physical works that have been undertaken without development consent)

**3. Modify Condition G5:**

**Height**

- G5. The maximum RL of the proposed development shall be **47.17 AHD** measured at the highest point of the new roof. The Certifying Authority must ensure, prior to the issue of the final Occupation Certificate required on the completion of works, that evidence is submitted by the Applicant, demonstrating compliance with this condition.

(Reason: To ensure compliance with the terms of this development consent)

**4. Add new Condition G9 as follows:**

**Engineering Certification and compliance with the National Construction Code**

G9 Appropriate Engineering Certification shall be submitted to the satisfaction of the Principle Certifying Authority to certify the structural adequacy of all works outside the scope of approved plans set out in DA 386/09 approved on 26/3/2010 and as modified under DA 386/09/2 approved pm 16/12/2011, are suitable for their intended use, as well as providing certification demonstrating compliance with the National Construction Code. The requirements of this condition shall be satisfied prior to the issue of any Occupation Certificate on the site.

(Reason: To clarify that this consent does not grant or imply retrospective approval for the physical works that have been undertaken without development consent)

**5. Add new conditions I6, I7 and I8:**

**Gym/store not to be used as habitable space**

I6. The gym/storeroom in the basement pool level is not approved as habitable space. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Inadequate access to daylight and ventilation, and to clarify the terms of this development consent)

**Storeroom / pool equipment and amenities area not to be used as habitable space**

I7. The storeroom/ pool equipment and amenities area in the subfloor level is not approved as habitable space. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To clarify the terms of this development consent)

**Use as a single dwelling**

I8. The building is approved for use only as a single dwelling.

(Reason: To ensure compliance with the terms of this consent)

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**Reason for approval:**

The proposed modifications have been considered against the relevant provisions of the *Environmental Planning and Assessment Act 1979*, North Sydney Local Environmental Plan 2013 and Development Control Plan 2013 and all other relevant statutory instruments and is considered to satisfactorily address those requirements.

Having regard to the provisions of section 4.55(2) and 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the proposed development as modified is substantially the same development as originally approved. The application is therefore recommended for **approval**.

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**How community views were taken into account:**

Adjoining properties and the Bay Precinct were notified of the proposed development between 21 December 2018 – 25 January 2019. A notice was placed in the Mosman Daily on 20 December 2018. A total of 3 submissions have been received in relation to the originally advertised modification application.

Amended plans received on 9 October 2019 were notified to adjoining properties and the Bay Precinct between 18/10/2019 – 1/11/2019. A notice was placed in the Mosman Daily on 17 October 2019. No further submissions were received in relation to the amended plans.

Further amended plans received on 18 December 2019 provided clarification on a number of elements, however, provided no changes that were required to be notified in accordance with North Sydney Council's Community Participation Plan.

The conditions attached to the original consent for Development Application No. 386/09 by endorsed date of 22 March 2010 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**

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DATE

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Signature on behalf of consent authority  
**LARA HUCKSTEPP  
EXECUTIVE PLANNER**