

Sanctum Design Consultants Pty Ltd
209/40 Yeo Street
NEUTRAL BAY NSW 2089

D249/06
HS1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 249/06/3 – APPROVAL**

Development Consent Number: 249/06

Land to which this applies: 17 Dumbarton Street, McMahons Point
Lot No.: 1, DP: 1041977

Applicant: Sanctum Design Consultants Pty Ltd

Proposal: Section 4.55(2) modifications to DA249/06 to modify alterations and additions to the dwelling house.

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. **249/06** and registered in Council's records as Application No. **249/06/3** relating to the land described as **17 Dumbarton Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 11 December 2006, has been determined in the following manner: -

1. To modify the development consent DA249/06 as follows:

Development in Accordance with Plans

A1. The development being carried out in accordance with drawings numbered A00 Issue D to A07 Issue D (inclusive), dated November 2006, drawn by Mark Hurcum Design Practice Architects, and received by Council on 30 November 2006, as amended by the following plans and additional conditions:

Plan No.	Issue	Title	Drawn by	Received
DA01	A	Site and Analysis Plan	Sanctum Design	19.2.2020
DA02	A	Garage Level Plan	Sanctum Design	19.2.2020
DA03	A	Level 1 Plan	Sanctum Design	19.2.2020
DA04	A	Level 2 Plan	Sanctum Design	19.2.2020
DA05	A	Level 3 Plan	Sanctum Design	19.2.2020
DA06	A	Roof Plan	Sanctum Design	19.2.2020

DA07	A	Section BB	Sanctum Design	19.2.2020
DA08	A	North Elevation, Section AA	Sanctum Design	19.2.2020
DA09	A	South Elevation	Sanctum Design	19.2.2020
DA10	A	East and West Elevations	Sanctum Design	19.2.2020
DA17	A	External Finishes Schedule	Sanctum Design	19.2.2020

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

2. To add the following conditions to DA249/06:

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)

Dilapidation Report Private Property (Excavation)

C25. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the ‘zone of influence’ of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant’s and adjoining owner’s interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/ies prior to the commencement of construction)

Structural Adequacy of Adjoining Properties – Excavation Works

C26. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property No. 15 Dumbarton Street, McMahons Point, which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Structural Adequacy of Existing Building

C27. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

C28. Engineering Plans

Prior to the issue of a Construction Certificate, a full set of engineering plans consistent with the sketch plans provided by D'Ambrosio Consulting Pty Ltd are to be submitted to the Principal Certifying Authority.

(Reason: To be consistent with the terms of this consent).

E. During Demolition and Building Work

Geotechnical Stability during Works

E15. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the 17 Dumbarton Street, McMahons Point - Certificate of Structural Adequacy, written by D'Ambrosio Consulting Pty Ltd, dated: 20 April 2020 and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Reason for approval:

The proposed amended modifications satisfy Section 4.55(2) 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. The proposed modifications to dwelling would not cause adverse material amenity impacts on the adjoining properties in terms of visual privacy/amenity loss, overshadowing or view loss. The proposal will remain substantially the same as originally approved.

In summary, the proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved with modifications to the relevant conditions.

How community views were taken into account:

The application was notified for a period of fourteen (14) days to adjoining properties. The application resulted in nil (0) submissions. The proposal does not result in significant amenity impacts to adjoining properties and therefore can be granted consent.

The conditions attached to the original consent for Development Application No. 249/06 by endorsed date of 11 December 2006 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
LUKE DONOVAN
A/TEAM LEADER (ASSESSMENTS)