

George Tawaf
6 Lower Brooks Street
LINLEY POINT NSW 2066

D74/18
HS1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 74/18/2 – APPROVAL**

Development Consent Number: 74/18/2

Land to which this applies: 24 Milner Crescent, Wollstonecraft
Lot No.: 4, DP: 4319

Applicant: George Tawaf

Proposal: Section 4.55(2) modifications to DA74/18 to modify demolition of existing structures and the construction of a dual occupancy with a single garage per dwelling.

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. **74/18** and registered in Council's records as Application No. **74/18/2** relating to the land described as **24 Milner Crescent, Wollstonecraft**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 17 September 2019, has been determined in the following manner: -

1. To modify the development consent DA74/18 as follows:

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

Drawings numbered A0000 Issue CT05 to A1004 Issue CTO5 (inclusive), dated 26 July 2019, drawn by ESS Lifestyle Pty Ltd, and received by Council on 12 March 2019.

As amended by the following plans:

Plan No.	Issue	Dated	Title	Drawn by
A2201	S4.55	30/03/20	Plan: Lower ground	ESS Lifestyle Pty Ltd
A2202	S4.55	30/03/20	Plan: Ground	ESS Lifestyle Pty Ltd

A2203	S4.55	30/03/20	Plan: Level 01	ESS Lifestyle Pty Ltd
A2204	S4.55	30/03/20	Plan: Roof	ESS Lifestyle Pty Ltd
A3101	S4.55	30/03/20	Elevation: North	ESS Lifestyle Pty Ltd
A3102	S4.55	30/03/20	Elevation: South	ESS Lifestyle Pty Ltd
A3103	S4.55	30/03/20	Elevation: East	ESS Lifestyle Pty Ltd
A3104	S4.55	30/03/20	Elevation: West	ESS Lifestyle Pty Ltd

(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 DA74/18:

Frosted Windows 2 and 6

C27. Windows 2 and 6 on both eastern and western ground floor elevation are to installed using fully frosted glass.

Plans and specifications complying with this condition are to be submitted to the PCA prior to the issue of the construction certificate.

(Reason: To maintain minimise overlooking and visual privacy concerns to adjoining properties)

Frosted glass to Ensuite Windows

C28. Both first floor ensuite windows on the eastern and western are to use frosted glass.

Plans and specifications complying with this condition are to be submitted to the PCA prior to the issue of the construction certificate.

(Reason: To maintain minimise overlooking and visual privacy concerns to adjoining properties)

3. Amend Condition C26 as follows:

BASIX Certificate

C1. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **902070M_02** 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 submitted, 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)

The proposed 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.

Reason for approval:

The application was notified for a period of fourteen (14) days to adjoining properties. The application resulted in two (2) submissions. The concerns raised in the submissions were responded to previously in this report. The proposal does not result in significant amenity impacts to adjoining properties and therefore can be granted consent.

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 given it is substantially the same development with modifications to the relevant conditions.

How community views were taken into account:

The development application was notified pursuant to the North Sydney Community Participation Program 2019. The notification of the application went from the 22 April 2020 and 6 May 2020 and resulted in two (2) submissions, which were addressed in the delegated report.

The conditions attached to the original consent for Development Application No. 74/18 by endorsed date of 17 September 2019 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