

Original signed by **Robyn Pearson** on **22/10/2020**

Nigel Marsh
5 Spruson Street
NEUTRAL BAY NSW 2089

D102/19
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 102/19/3 – APPROVAL**

Development Consent Number: 102/19/3

Land to which this applies: 5 Spruson Street, Neutral Bay
Lot No.: 2, DP: 303874

Applicant: Nigel Marsh

Proposal: To modify Consent No 102/19 with regards to the addition of a playroom under the garage; stair and window changes, new retaining wall and other internal changes.

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. **102/19** and registered in Council's records as Application No. **102/19/3** relating to the land described as **5 Spruson Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 9 July 2019, has been determined in the following manner: -

1. Condition A5 is inserted as follows:

Development in Accordance with Plans (S4.55 Amendments)

A5. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on:

Drawing No.	Title	Revision	Drawn by	Dated	Received
DA.23	New Site Plan	D	Ken Powell Architect	12/08/2020	19/08/2020
DA.24	Plan – Dual Occupancy A	D	Ken Powell Architect	12/08/2020	19/08/2020
DA.25	Plan – Dual Occupancy B	C	Ken Powell Architect	12/08/2020	19/08/2020
DA.26	Sections A + B	D	Ken Powell Architect	12/08/2020	19/08/2020
DA.27	North + South Elevations	D	Ken Powell Architect	12/08/2020	19/08/2020
DA.28	East + West Elevations of Houses + Garage	D	Ken Powell Architect	12/08/2020	19/08/2020

except as amended by the following conditions and this consent.

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

2. Condition C29 is amended as follows:

BASIX Certificate

C9. 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. A344357_04 dated 11 October 2020 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)

Reason for approval:

The development application has been assessed against the relevant planning instruments and policies, in particular the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013, and generally found to be satisfactory.

There would be no unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposed modifications given that the works are primarily located within the approved footprint the dwellings on site. The works will generally be sympathetic to the overall design of the subject dwellings and the character of the Neutral Neighbourhood. As a result, the proposed works as conditioned will provide additional resident amenity without negatively impacting the dwelling or neighbourhood amenity or character.

The application is considered to be acceptable in the circumstances and it is recommended for approval subject to standard and site specific conditions.

How community views were taken into account:

The subject application was notified to adjoining properties and the Neutral Precinct Committee seeking comment and no submissions were received. Nevertheless, it is considered that the proposed modifications will provide improved amenity for the residents of the subject site without having any adverse impact upon the streetscape, the amenity of adjoining properties and the character of the locality.

The conditions attached to the original consent for Development Application No. 102/19 by endorsed date of 9 July 2019 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Andrew Beveridge**. 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