

Original signed by Robyn Pearson on 17/12/2020

Hamish Douglas
C/- Luigi Rosselli Architects
122 Buckingham Street
SURRY HILLS NSW 2010

D234/19
RT(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 234/19/2 – APPROVAL**

Development Consent Number: 234/19/2

Land to which this applies: 22 Thrupp Street (aka 8 Raymond Road), Neutral Bay
Lot No.: 1, SP: 64754

Applicant: Hamish Douglas

Proposal: To modify Development Consent D234/19 for various changes including additional excavation, reconfiguration of internal spaces and the extension of the underground swimming pool.

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. **234/19** and registered in Council's records as Application No. **234/19/2** relating to the land described as **22 Thrupp Street (aka 8 Raymond Road), Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 November 2019, has been determined in the following manner: -

- To modify the development consent (D234/19) and modify conditions A1, C6, C30, and G11 to read as follows:*

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the following drawings

Drawing No.	Issue	Date	Drawn	Received
DA02	A	31.07.19	Luigi Rosselli Pty Ltd	8 August 2019
DA03	B	03.10.19	Luigi Rosselli Pty Ltd	4 October 2019
DA04	A	31.07.19	Luigi Rosselli Pty Ltd	8 August 2019

DA05	A	31.07.19	Luigi Rosselli Pty Ltd	8 August 2019
DA06	A	31.07.19	Luigi Rosselli Pty Ltd	8 August 2019
DA07	A	31.07.19	Luigi Rosselli Pty Ltd	8 August 2019
DA08	B	03.10.19	Luigi Rosselli Pty Ltd	4 October 2019
DA09	A	31.07.19	Luigi Rosselli Pty Ltd	8 August 2019
DA10	B	03.10.19	Luigi Rosselli Pty Ltd	4 October 2019
DA11	A	31.07.19	Luigi Rosselli Pty Ltd	8 August 2019
DA12	B	03.10.19	Luigi Rosselli Pty Ltd	4 October 2019
DA13	A	31.07.19	Luigi Rosselli Pty Ltd	8 August 2019
DA15	B	03.10.19	Luigi Rosselli Pty Ltd	4 October 2019

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D234/19/2:

Drawing No.	Issue	Date	Drawn	Received
S4.55 02	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 03	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 04	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 05	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 06	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 07	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 08	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 09	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 10	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020
S4.55 11	A	06.11.20	Luigi Rosselli Pty Ltd	9 November 2020

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

Geotechnical Report

C6. A report prepared by an appropriately qualified Geotechnical Engineer certifying that the existing rock formations and substrate on the site is capable of:

- a) Withstanding the proposed loads to be imposed;
- b) Withstanding the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
- c) Providing protection and support of adjoining properties; and
- d) The provision of appropriate subsoil drainage during and upon completion of construction works

must be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate.

Recommendations made in the certified report must be complied with at all times.

Building plans and specifications submitted for approval with any construction certificate application must comply with (a), (b), (c) and (d) above and the certified report, including any recommendations made in the said certified report.

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 structural integrity of the subject site and adjoining sites during the excavation process)

BASIX Commitments

C30. 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. A351065_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)

Compliance with Certain conditions

G11. Prior to the issue of any Occupation Certificate, **Conditions C9, C31, C32, C33, C34** must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

2. To insert a new conditions A4, C34 and C35 to read as follows:

Terms of Consent (D234/19/2)

A4. Approval is granted for the following modifications only:

- a) Relocation and enlargement of the DA approved skylight over the lower ground floor bathroom;
- b) Installation of new skylight over the living room on the ground floor;
- c) Raising the FFL of the underground garage by 130mm to FFL57.23 and the re-configuration of the north-western corner of the underground garage to provide a splayed wall;

- d) Installation of a new 100 kilolitres stormwater retention tank under the garage;
- e) Realignment of the passage between the underground garage and the internal/underground areas on the lower ground floor;
- f) Lowering of the FFL of the internal/underground areas on the lower ground floor by 200mm and new steps added to the main staircase;
- g) Reduction in excavation to the west of pantry 2 on the lower ground floor;
- h) Additional excavation and the enlargement of the laundry and linen storeroom on lower ground floor;
- i) Remodelling of the cinema room on the lower ground floor to provide a massage room, a sauna, a toilet and bathroom 2;
- j) Lowering of the FFL of the pool lounge area on the pool level by 750mm to FFL 55.11;
- k) Increase excavation on the pool level to increase the size of the pool lounge area, a larger and deeper swimming pool, relocation of the plant room and a new bathroom 3;
- l) Raising the RL of the top of wall of ground floor addition by 50mm to RL64.86;
- m) Raising the planter box wall in the middle of the roof garden by 400mm;
- n) Realignment of the north-eastern wall of the ground floor addition between kitchen/dining area and courtyard 2;
- o) Reinstatement of the fireplace in the library on the ground floor; and
- p) Increase in the setback of the ground floor addition from the northern (Raymond Road) boundary by 300mm;

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.)

New Fireplace

- C34. The new fireplace for the Library on the ground floor within the original portion of 1889 dwelling shall be in the late Victorian style, with a marble surround, arched cast iron fireplace insert and tiled hearth.

Written concurrence with this condition is to be provided by a suitably qualified and experienced heritage architect and is to be submitted to the certifier 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 restore the heritage item)

Construction Noise Management Plan

C35. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:

- a) Identification of noise affected receivers near to the site.
- b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- c) Details of work schedules for all construction phases;
- d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority's Interim Construction Noise Guideline ("ICNG").
- e) Representative background noise levels should be submitted in accordance with the ICNG.
- f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise affected receiver.
- h) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupants at noise affected receivers.
- j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on occupants at noise affected receivers and other less intrusive technologies available; and
- k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected residence.

The Construction Noise Management Plan and must be submitted to the Principle Certifying Authority and a copy provided to Council prior to the issue of the Construction Certificate.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for granting development consent to the originally approved development application and is considered to be acceptable.

The proposed modifications would not result in changes in terms of height, bulk/scale and the overall form of the approved development.

Reason for approval:

The proposed modifications would not have adverse impacts on the significance of the heritage listed property subject to the imposition of appropriate conditions and there would be no material impacts on the amenity of the adjoining properties subject to the modifications/imposition of appropriate conditions.

The issues raised in the submissions received have been addressed in the assessment report.

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

How community views were taken into account:

The subject application was notified to adjoining properties and the Neutral Precinct inviting comment between 24 November and 4 December 2020. Council received two (2) submission from one (1) household and the issues raised have been addressed in the assessment report.

The conditions attached to the original consent for Development Application No. 234/19 by endorsed date of 6 November 2019 still apply.

ADVISINGS

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