

Original signed by Robyn Pearson on 10/2/2021

Cove Design & Construct (MPD Constructions Group)  
37 Currawong Avenue  
NORMANHURST NSW 2076

D404/19  
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 404/19/4 – APPROVAL**

**Development Consent Number:** 404/19/4

**Land to which this applies:** 47 Shellcove Road, Kurraba Point  
Lot No.: 2, DP: 169174

**Applicant:** Cove Design & Construct (MPD Constructions Group)

**Proposal:** Modifications to Development Consent (D404/19) including alterations to the approved dormer and various 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. **404/19** and registered in Council's records as Application No. **404/19/4** relating to the land described as **47 Shellcove Road, Kurraba Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 27 February 2020, has been determined in the following manner: -

- To modify the development consent (D404/19) and modify conditions A1, C11, C12 and G6 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 Number	Rev	Title	Drawn by	Dated
DA.101	E	Site & Analysis Plan	Madeline Blanchfield Architects	10/12/2019
DA.300	E	Lower Ground Floor Plan	Madeline Blanchfield Architects	10/12/2019
DA.301	E	Ground Floor Plan	Madeline Blanchfield Architects	10/12/2019
DA.302	E	First Floor Plan	Madeline Blanchfield Architects	10/12/2019
DA.303	E	Roof Plan	Madeline Blanchfield Architects	10/12/2019
DA.400	E	South Elevation	Madeline Blanchfield Architects	10/12/2019

DA.401	E	East Elevation	Madeline Blanchfield Architects	10/12/2019
DA.402	E	North Elevation	Madeline Blanchfield Architects	10/12/2019
DA.403	E	West Elevation	Madeline Blanchfield Architects	10/12/2019
DA.500	E	Section A-A	Madeline Blanchfield Architects	10/12/2019

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D404/19/4:

<b>Drawing No.</b>	<b>Issue</b>	<b>Title</b>	<b>Drawn by</b>	<b>Date</b>
DA.300	A	Lower Ground Floor Plan	COVE	20.11.2020
DA.301	A	Ground Floor Plan	COVE	20.11.2020
DA.302	B	First Floor Plan	COVE	12.01.2021
DA.303	A	Roof Plan	COVE	20.11.2020
DA.400	B	South Elevation	COVE	12.01.2021
DA.401	A	East Elevation	COVE	20.11.2020
DA.402	B	North Elevation	COVE	12.01.2021
DA.403	A	West Elevation	COVE	20.11.2020
DA.500	B	Section A-A	COVE	12.01.2021

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

### **BASIX Commitments**

C11. 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 A403467 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)

### **Heritage**

C12. The following shall be applied to the development:

- a) The exterior cladding of the first-floor addition and retained existing dormer shall comprise timber shingles, natural weatherboard cladding, or composite material cladding equal to 'Scyon Linear' cladding, with traditional profile and paint finish, 16mm thick and 180mm wide, laid in a horizontal pattern. No approval is given for any other type of artificial weatherboards, fibre cement cladding, or metal cladding;
- b) The southern window on the side cheek of the dormer shall be modified to provide a timber double hung window to maintain the character within the conservation area;

- c) All new windows/glazing to the dormer shall be timber framed to ensure that the design is sympathetic to the character of the conservation area; and
- d) All other new windows and doors are to have aluminium or steel framing sections of a width 45mm or wider or are to be timber-framed;

Plans and specifications which comply 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 be sympathetic to existing dwelling and conservation area)

### **Compliance with Certain conditions**

- G6. Prior to the issue of any Occupation Certificate, **Conditions A4, C12, C13** 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 and C14 to read as follows:**

#### **Terms of Consent (D404/19/4)**

- A4. Approval is granted for the following modifications only:

- a) **Lower Ground Floor Level** - Reconfiguration of the existing cellar including the retention of an existing internal wall to the sitting room and the construction of a new internal masonry wall within the existing under house storage area;
- b) **Ground Floor Level** – Retention of the existing internal layout for the kitchen and library. Retention of existing windows and the creation of a new opening between the hall and the living area. Retention of existing ground floor windows and the main dwelling entrance doorway. Deletion of the approved pergola on the terrace to east of the living area; and
- c) **First Floor Level** – Modifications to the design of the approved ensuite addition including changes to the internal configuration and installation of a new skylight at the rear. Retention of the existing dormer including the removal of an existing windows on the northern elevation, the installation of a double hung timber window on the southern elevation; the removal of existing windows on the eastern (Shell Cove) elevation and replace with new full height glazing and the installation of new balustrades to provide a juliet balcony.

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)

**Skylight**

- C14. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100mm above the roof plane when in a closed position.

Plans and specifications which comply 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 minimise the visual impact of the skylight(s) on the roof plane)

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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.

The proposed modifications would result in a development which is substantially the same development as originally approved.

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

**Reason for approval:**

The proposed modifications would not have adverse impacts on the significance of the conservation area subject to the imposition of appropriate conditions.

The proposed modifications would have no material impacts on the amenity of the adjoining properties.

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.

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

The application was notified to adjoining properties and Kurraba/Bennett Precincts between 4 and 18 December 2020. The notification of the application has attracted no submissions.

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The conditions attached to the original consent for Development Application No. 404/19 by endorsed date of 27 February 2020 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

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Signature on behalf of consent authority  
**ROBYN PEARSON**  
**TEAM LEADER ASSESSMENTS**