

Original signed by Robyn Pearson on 16/06/2021

Ken Yardley
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D293/20
TH2 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 293/20/2 - APPROVAL**

Development Consent Number: 293/20/2

Land to which this applies:

38 Carabella Street, Kirribilli
Lot No.: 1, DP: 1050614

Applicant:

North Shore Building Design Group

Proposal:

To modify a consent for alterations and additions to an existing dwelling including a rear first floor addition and internal alterations.

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. **293/20** and registered in Council's records as Application No. **293/20/2** relating to the land described as 38 Carabella Street, Kirribilli.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 17 December 2020, has been determined in the following manner:-

Development in Accordance with Plans

1. The development being carried out in accordance with drawings numbered

Plan No.	Issue	Date	Drawn by	Received
Site Plan 02320-01	2	03/05/2021	North Shore Building Design Group	04/05/2021
Proposed First and Second Floor Level, 02320-03	2	03/05/2021	North Shore Building Design Group	04/05/2021
North and Southwest Elevation and Section A-A, 02320-04	2	03/05/2021	North Shore Building Design Group	04/05/2021

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 the granting of development consent to the originally approved development and is considered to be acceptable.

Reason for Approval:

The proposed realignment of the first-floor addition reducing the north-western side setback of the first floor from 1.2 m to 1.055 m is acceptable not affecting the bulk and scale of the building or detracting from the amenity of the northern neighbour 40 Carabella Street. The proposed balcony side walls provide additional privacy to neighbouring properties habitable rooms and private open space and ensures equitable access to views is maintained particularly views from the first floor of 36 Carabella Street towards the Sydney Harbour Bridge.

The proposed modification would not increase site coverage or decrease the existing landscaping within the site because the works are contained wholly within the first floor of the property. The modifications to the extension, addition of privacy walls to the balcony and extension of the skillion roof are considered minor maintaining the character of the dwelling and materials and finishes are to match the materials and finishes of the existing semi-detached dwelling.

Having regard to the provisions of section 4.55 (2) and 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 Bradfield Precinct inviting comment between 26/03/2021 and 9/04/2021. There were no submissions raised during notification. Following receipt of amended plans the modification application was renotified to adjoining properties and Bradfield Precinct between 14/05/2021 and 28/05/2021. One submission was received on 3 June 2021 and the issues raised were addressed in the Planning Report.

The conditions attached to the original consent for Development Application No. **293/20** by endorsed date of 17 December 2020 still apply.

ADVISINGS

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

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)