

Ania Roberts
133 Carabella Street
KIRRIBILLI NSW 2061

D193/20
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 193/20/2 – APPROVAL**

Development Consent Number: 193/20/2

Land to which this applies: 133 Carabella Street, Kirribilli
Lot No.: 4, DP: 656462

Applicant: Ania Roberts

Proposal: To modify Consent No 193/20 for various modifications to an approved dwelling including a new dormer with balcony, window changes and various other modifications.

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. **193/20** and registered in Council's records as Application No. **193/20/2** relating to the land described as **133 Carabella Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 23 November 2020, has been determined in the following manner: -

1. Condition A1 is amended as follows:

Development in Accordance with Plans (S4.55 Amendments)

A1. The development must be carried out in accordance with the following drawings and documents endorsed with Council's approval stamp: -

Plan No.	Revision	Title	Drawn by	Dated	Received
DA2.04	B	Proposed Ground Floor Plan	Design Studio Group	28/10/2020	02/11/2020
DA2.05	B	Proposed First Floor Plan	Design Studio Group	28/10/2020	02/11/2020
DA2.06	B	Proposed Lower Ground Floor Plan	Design Studio Group	28/10/2020	02/11/2020
DA2.07	B	Proposed Attic Floor Plan	Design Studio Group	28/10/2020	02/11/2020
DA2.08	B	Proposed Roof Plan	Design Studio Group	28/10/2020	02/11/2020
DA3.05	B	Proposed South Elevation Streetscape	Design Studio Group	28/10/2020	02/11/2020
DA3.06	B	Proposed South Elevation	Design Studio Group	28/10/2020	02/11/2020
DA3.07	B	Proposed East Elevation	Design Studio Group	28/10/2020	02/11/2020

Plan No.	Revision	Title	Drawn by	Dated	Received
DA3.08	B	Proposed North Elevation	Design Studio Group	28/10/2020	02/11/2020
DA3.09	B	Proposed West Elevation	Design Studio Group	28/10/2020	02/11/2020
DA4.01	B	Proposed Section A-A	Design Studio Group	28/10/2020	02/11/2020
DA4.02	B	Proposed Section B-B	Design Studio Group	28/10/2020	02/11/2020
DA6.01	B	Materials & Finishes	Design Studio Group	28/10/2020	02/11/2020
1	-	Landscape Plan	Even Spaces	07/08/2020	28/08/2020
2	-	Plants	Even Spaces	07/08/2020	28/08/2020
3	-	Plant Schedule & Notes	Even Spaces	07/08/2020	28/08/2020

Except as modified as such on the following drawings for DA193/20/2:

Plan No.	Revision	Title	Drawn by	Dated	Received
DA2.04	C	Proposed Ground Floor Plan	Design Studio Group	11/06/2021	01/07/2021
DA2.05	C	Proposed First Floor Plan	Design Studio Group	11/06/2021	01/07/2021
DA2.07	C	Proposed Attic Floor Plan	Design Studio Group	11/06/2021	01/07/2021
DA2.08	C	Proposed Roof Plan	Design Studio Group	11/06/2021	01/07/2021
DA3.07	C	Proposed East Elevation	Design Studio Group	11/06/2021	01/07/2021
DA3.08	C	Proposed North Elevation	Design Studio Group	11/06/2021	01/07/2021
DA3.09	C	Proposed West Elevation	Design Studio Group	11/06/2021	01/07/2021
DA4.01	C	Proposed Section A-A	Design Studio Group	11/06/2021	01/07/2021
DA4.02	C	Proposed Section B-B	Design Studio Group	11/06/2021	01/07/2021

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

2. Condition C13 is amended as follows:

BASIX Commitments

- C13. 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. A385371_03 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)

3. Condition C15 is amended to delete the requirements of C15 c as follows:

Heritage Requirements

- C15. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:

a) Colour Scheme

The exterior colour scheme shall be as documented on Drawing No. DA6.01 Revision B, by Design Studio Group dated 28 October 2020 and received at Council on 2 November 2020.

b) **Garage**

The garage door is to be in a visually recessive colour.

(Reason: To minimise the visual impact of the garage)

c) ~~Balcony to Attic Level~~

~~The balcony to the attic is to be deleted. Reason: To retain the significant rear roof plane.~~

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 fully satisfy the requirements of this condition.

(Reason: To ensure the use of materials and built elements are consistent and sympathetic to the character of the conservation area and the original dwelling)

Reason for approval:

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposed development remains substantially the same as what was approved by DA193/20. The proposed modifications will not alter the use of the development as originally approved and amenity impacts remain acceptable. The proposed modifications would also not significantly change the level of compliance with the relevant development standards and controls as contained in NSLEP 2013 and NSDCP 2013.

As the proposed modifications would allow for a roofed balcony dormer at the attic level alongside other modification changes to openings and layouts at the lower levels, there would be no additional unreasonable heritage or environmental impact in terms of overshadowing, view loss, privacy loss, foreshore and/or bulk and scale. The proposed works will provide additional resident amenity without negatively impacting the neighbourhood character, and the Careening Cove Conservation Area. The proposal also remains consistent with the objectives of the R2 (Low Density Residential) Zone and the original reasons for granting consent.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be **approved**.

How community views were taken into account:

The subject application was notified to adjoining properties and the Milson Precinct Committee seeking comment, with one of the two submissions received raising concern regarding the privacy and development potential impact for adjoining properties to the north. Nevertheless, it is considered that the proposed modifications would not substantially alter the impacts of what has already been approved under the original consent, and would provide improved amenity for the residents without causing any unreasonable impacts to the streetscape and/or adjoining properties.

The conditions attached to the original consent for Development Application No. 193/20 by endorsed date of 23 November 2020 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)