

Hamish Douglass
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 234/19/3 – APPROVAL**

Development Consent Number: 234/19/3

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

Applicant: Hamish Douglass

Proposal: To modify Development Consent D234/19 for various internal and external changes within the subject property and additional excavation.

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. **234/19/3** 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: -

- 1. 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

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D234/19/3:

Drawing No.	Issue	Date	Drawn	Received
S4.55 03	B	02.09.21	Luigi Rosselli Pty Ltd	14 September 2021
S4.55 05	B	02.09.21	Luigi Rosselli Pty Ltd	14 September 2021
S4.55 06	B	02.09.21	Luigi Rosselli Pty Ltd	14 September 2021
S4.55 07	B	02.09.21	Luigi Rosselli Pty Ltd	14 September 2021
S4.55 11	C	29.11.21	Luigi Rosselli Pty Ltd	29 November 2021

(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.

The geotechnical report shall have regard to the Geotechnical Site Investigation dated 22 July 2019 and the Geotechnical Assessment for S4.55 Modifications dated 9 September 2021, both prepared by Crozier Geotechnical Consultants.

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_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)

Compliance with Certain conditions

- G11. Prior to the issue of any Occupation Certificate, **Conditions C9, C31, C32, C33, C34 and C36** 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 A5 and C36 to read as follows:

Terms of Consent (D234/19/3)

- A5. Approval is granted for the following modifications only:

- a) A new underground storage area to utilise an existing void space along the existing brick wall on the southern property boundary with planters above;
- b) Reconfiguration of the internal passageway between the approved garage and cellar on the lower ground floor and additional excavation works under the footprint of the main dwelling to provide a mud room, a cellar store room, a plant room and a general store room on the lower ground floor;
- c) Widening of an approved wall opening linking the ground floor formal dining and sitting rooms to match the width of an existing opening on the northern wall of the sitting room; and
- d) Modifications to an approved wall opening between the first floor master bedroom and bedroom 2 to match the design of the existing doorways to the first floor front balcony.

No approval is granted for implied for the removal of the existing rock outcrop adjacent to the south-eastern corner of the subject site and the construction of a new underground garbage bin storage facility with sandstone cladding at the same location.

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)

Deletion of Garbage Bin Storage

- C36. The proposed garbage bin storage area must be deleted from the proposal and the existing sandstone rock outcrop retained as marked in red in the approved plans.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To retain original landscape features within the subject site)

Reason for approval:

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.

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

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 1 and 15 October 2021. Council received two (2) submissions 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