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D349/17
MS4 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 349/17/2 - APPROVAL**

Development Consent Number: 349/17

Land to which this applies: 67 Carabella Street, Kirribilli
Lot No.: 0, SP: 6699

Applicant: MLR Architects

Proposal: Section 4.55(1A) modification relating to alterations and additions to an existing residential flat building to create one additional one-bedroom apartment

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. **349/17** and registered in Council's records as Application No. **349/17/2** relating to the land described as 67 Carabella Street, Kirribilli.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 18 January 2018, has been determined in the following manner:

A. Impose Condition A4 as follows

Development in Accordance with Plans (s4.55 Amendments)

- A4 The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on:

Drawing Number	Revision	Title	Drawn by	Dated
DA01	C	Site, Ground Floor Plan, Schedule of Areas and Window Schedule	Architects MLR	30/11/2021
DA02	B	Elevations, Section, Sediment Control Details and BASIX Commitments	Architects MLR	30/11/2021

except as amended by the following conditions and this consent.

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

Reason for Approval:

The modification application meets the requirements of section 4.55(1A) and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1) of the Act, which have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

The proposed modifications are considered substantially the same development and are of minimal environmental impact. The proposed is minor in nature and would not adversely impact the amenity of the surrounding area. The removal of the approved parking space in association with the approved unit would not be contrary to the parking rates in NSDCP 2013 as the parking rates are established as a maximum only and not a requirement. Alternate transport options are available within the surrounding area given the close proximity to various public transport services. The removal of the approved parking space would also reduce the unbuilt upon area and retain landscaping.

The proposed modification is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The application was notified in accordance with Council's Community Engagement Protocol from 11 January 2022 until 25 January 2022. Nevertheless, the proposed modification has been considered having regard to the relevant development controls and the potential impact to the amenity of the area.

The conditions attached to the original consent for Development Application No. **349/17/2** by endorsed date of 18 January 2018 still apply.

ADVISINGS

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

7 February 2022

DATE

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