

Original signed by: Mr Kim Rothe

Dated:.....13/04/2022

Felicity King
Studio Barbara
6/20 Maddox Street
ALEXANDRIA NSW 2015

D230/20
KRR (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 230/20/2 - APPROVAL

Development Consent Number: 230/20/2

Land to which this applies: 23 Victoria Street, McMahons Point
Lot No.: 21, DP: 83827

Applicant: Felicity King, Studio Barbara

Proposal: Section 4.55(2) Modification to DA 230/20/2 to raise the roof level of the approved roof level additions, including a higher lift overrun and introduction of new rooftop terrace.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 6 April 2022.

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. **230/20** and registered in Council's records as Application No. **230/20/2** relating to the land described as **23 Victoria Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 December 2020, has been determined in the following manner: -

1. To insert Condition A4, as follows:-

Development in Accordance with Plans (S.4.55 Modifications)

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:

Plan No.	Issue	Title	Drawn by	Dated	Received
DA1	D	Proposed Site Plan + Site Analysis	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA4	D	Existing Basement Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA5	D	Existing Ground Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA6	D	Existing First Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA7	D	Existing Roof Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA8	D	Proposed Basement Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA9	D	Proposed Ground Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA10	D	Proposed First Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA11	D	Proposed Attic Floor Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA12	D	Proposed Roof Plan	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA13	D	North Front & West Side Elevations	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA14	D	South Rear & East Side Elevations	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA15	D	Sections 1 & 2	Barbara Architecture and Interiors	26 August 2021	7 September 2021
DA20	D	Schedule of Materials & Finishes	Barbara Architecture and Interiors	26 August 2021	7 September 2021

and 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)

2. To modify Condition C26 as follows:-

BASIX Certificate

C26. 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. **(12342985)** 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. To add Condition C27 as follows:

Balustrade of Roof Terrace

C27 The glass balustrade for the roof terrace is to be changed to be the same material as shown in the plans for the balustrades at the lower levels of the building being either: the appearance of masonry, with a flat bar handrail optional; or material "D" "steel balustrade with vertical steel rods with flat bar handrail" as specified in the materials schedule and depicted in Drawing Number DA20, Schedule of Finishes and Materials.

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 reduce the total amount of glazing for the northern and western elevations on the building and be replaced with consistent materials used in the development)

Reason for approval:

The Panel is satisfied the modification application warrants approval subject to the above changes and it will not have adverse impacts on the amenity of the area.

How community views were taken into account:

The application was notified to adjoining properties between 24 September 2021 to 10 October 2021. The application was notified in accordance with the North Sydney Community Participation Plan 2019. Nil (0) submissions were received during the notification or assessment of the application.

The conditions attached to the original consent for Development Application No. 230/20 by endorsed date of 2 December 2020 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Kim Rothe, Senior Assessment Officer**. 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

13 April 2022

DATE

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)