

Original signed by Michael Stephens on 20 May 2022

Sophie Felsman
52 Shellcove Road
KURRABA POINT NSW 2089

D90/21
TH2 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 90/21/2 - APPROVAL**

Development Consent Number:	90/21
Land to which this applies:	52 Shellcove Road, Kurraba Point Lot No.: 10, DP: 1184205
Applicant:	Sophie Felsman
Date of Determination	13 May 2022
Proposal:	To modify a consent for internal and external alterations including removal of partitions and new openings

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. **90/21** and registered in Council's records as Application No. **90/21/2** relating to the land described as **52 Shellcove Road, Kurraba Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **21 June 2021**, has been determined in the following manner:

A. Impose Conditions A5 and A6 as follows:

Development in accordance with Plans (s4.55 Amendments)

A5. The development being carried out in accordance with plans identified in Condition A2 of the consent and A5 of the modification to consent endorsed with Council's approval stamp, except as modified by the modifications shown on:

Plan No.	Issue	Title	Drawn by	Received
DA01	A03	Site Analysis	Morrison Design Partnership	15/12/2021
DA02	A03	Site/Roof Plan	Morrison Design Partnership	15/12/2021
DA03	A03	Existing/Proposed Ground Floor Plans	Morrison Design Partnership	15/12/2021
DA04	A03	Existing/Proposed First Floor Plans	Morrison Design Partnership	15/12/2021
DA06	A03	East Existing & Proposed Elevations	Morrison Design Partnership	15/12/2021
DA07	A03	North Existing & Proposed Elevations	Morrison Design Partnership	15/12/2021
DA08	A02	West Existing & Proposed Elevations	Morrison Design Partnership	15/12/2021
DA11	A03	Dressing Room Plan & Elevations	Morrison Design Partnership	15/12/2021

DA12	A03	Ensuite	Morrison Design Partnership	15/12/2021
------	-----	---------	-----------------------------	------------

Terms of Consent (D90/21/2)

A6. Approval is granted for the following modifications only:

- (a) Demolish the existing kitchen and construct a new kitchen.
- (b) Part demolition of an existing wall between the existing bedroom 2 and the master bedroom to form a master bedroom and walk in robe.
- (c) Extend the existing ensuite requiring demolition of a linen cupboard and associated linen press doors to be replaced with plasterboard.
- (d) Alterations to the eastern dressing room wall with the removal of joinery surrounding the doorway between the master bedroom and dressing room and install a new door.
- (e) Wardrobes within the proposed walk-in robe to be set below the cornice and the rooms patterned ceiling.
- (f) Existing dressing room adjoining the master bedroom is to be converted into an office.
- (g) Use of existing dressing room as an office and retention of window seat.

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)

B. Modify Condition C6 as follows:

C6 Heritage Requirements

The following changes must be made to the plans prior to the issue of the construction certificate. Written concurrence is to be provided from Council's Conservation Planner to the certifier prior to the issue of any construction certificate and the certifier is to ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

- a) Exterior
 - i) New windows and doors to the proposed mudroom are to be timber framed.
- b) Ground Level Interior
 - i) New opening between the entrance hall and dining/lounge room to be designed as an archway similar in proportions to the existing hallway arches or shall be a rectilinear opening to include the retention of a bulkhead, nib wall and plate rails.
 - ii) New opening between the casual dining area and living room is to include a nib wall and bulkhead. New joinery to match existing.
 - iii) Delete the proposed demolition of the original chimney breast. New opening between the chimney breast and rear wall of dwelling is to include a nib wall adjacent to the chimney breast. New joinery is to match existing.
 - iv) The modern timber mantelpiece is permitted to be removed, the chimney breast may be infilled, and the wall of the chimney breast is to match the materials and finishes of the room.

- c) First Level Interior
- i) New joinery to walk-in-robe is to be as detailed as per the drawing DA11 A03 dated 8 December 2021 by Morrison Design Partnership received at Council on 15 December 2021.
 - ii) Window seat to the proposed First Level office to be retained.
 - iii) New ensuite is to be detailed as per drawing DA12 A03 dated 8 December 2021 by Morrison Design Partnership received at Council on 15 December 2021.
 - iv) New opening to the proposed master bedroom and walk-in-robe is to retain a bulkhead and new joinery to match.
- (Reason: To retain original fabric that contributes to the significance, styling and character of the dwelling)

The proposed modifications are considered to be generally consistent with the originally approved development application and s4.55 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 grant of development consent to the originally approved development and is considered to be acceptable.

The modification application deletes previously proposed alterations to the front façade which is supported, because it retains original fabric and joinery that contribute to the aesthetic significance and character of the dwelling.

Reasons for Approval:

Alterations to the existing first floor bathroom that entails the removal of an existing modern cupboard is supported, minimizing the loss of the original fabric of the heritage item. The demolition of part of an existing wall separating the master bedroom and bedroom 2 is supported, retaining the interior room layouts of these prominent first floor rooms and the opening is restricted to retain an interpretation of the room configuration and reinstatement of the wall is possible. The joinery associated with the walk-in robe will be sited below the height of the master bedroom picture rails preserving the room's cornices and patterned ceiling.

The removal of the ground floor chimney breast/fireplace is not supported because it would further erode the original configuration of the ground floor of the dwelling which has progressively been subject to alterations to form an open plan area contrary to the original character of the heritage item. A condition of consent is recommended for the modern fireplace and timber mantelpiece to be removed and the chimney breast infilled and for the wall and skirtings to match the materials and finishes of the living/dining room restoring the chimney breast and having a positive heritage outcome.

Having regard to the provisions of section 4.55 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 not notified to adjoining properties and the Bennett Precinct because the application to modify a development consent met the criteria outlined in s3.4.2 'Modifications to Development Consents granted by Council' of the North Sydney Council Community Engagement Protocol given that the modification application involves internal works only.

The conditions attached to the original consent for Development Application No. **90/21** by endorsed date of **21 June 2021** 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

18 May 2022

DATE

Signature on behalf of consent authority
MICHAEL STEPHENS
A/TEAM LEADER (ASSESSMENTS)