



TPD Projects Pty Ltd
L1, 16 Vine Street
REDFERN NSW 2016

D361/21
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 361/21/2 - APPROVAL**

Development Consent Number: 361/21

Land to which this applies: 6 Warung Street, McMahons Point
Lot No.: C, DP: 338032

Applicant: T Buncombe

Proposal: To modify the consent to remove secondary dwelling and lower ground floor (LGF) kitchenette, revise LGF layout and new steam room, internal material changes, change in location of pool fence, reduce northern WC window, first floor bathroom layout changes, second floor terrace landscaping changes, removal of lift overrun and two (2) additional solar panels.

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. **361/21** and registered in Council's records as Application No. **361/21/2** relating to the land described as **6 Warung Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **23 November 2022** has been determined in the following manner:

1. To modify the description of the proposal in the consent so as to read follows:

Proposal:

Alterations and additions to existing dwelling, including demolition of the top floor level and its replacement with a new top floor level, new steam room and BBQ area on the lower ground floor and associated works.

2. To amend Condition A1 of the consent so as to read as follows:

Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Rev	Description	Prepared by	Dated
S4.56 100	A	Proposed Site Plan	Virginia Kerridge Architect	24/01/2023
S4.56 120	A	Proposed Lower Ground Floor Plan	Virginia Kerridge Architect	24/01/2023
S4.56 130	A	Proposed Ground Floor Plan	Virginia Kerridge Architect	24/01/2023
S4.56 140	A	Proposed First Floor Plan	Virginia Kerridge Architect	24/01/2023
S4.56 150	A	Proposed Second Floor Plan	Virginia Kerridge Architect	24/01/2023
S4.56 160	A	Proposed Roof Plan	Virginia Kerridge Architect	24/01/2023
S4.56 200	A	Proposed Southern Elevation	Virginia Kerridge Architect	24/01/2023
S4.56 210	A	Proposed Northern Elevation	Virginia Kerridge Architect	24/01/2023
S4.56 220	A	Proposed Western Elevation	Virginia Kerridge Architect	24/01/2023
S4.56 230	A	Proposed Eastern Elevation	Virginia Kerridge Architect	24/01/2023
S4.56 300	A	Proposed Section AA	Virginia Kerridge Architect	24/01/2023
S4.56 310	A	Proposed Section BB	Virginia Kerridge Architect	24/01/2023

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

3. To amend Condition C11 of the consent so as to read as follows:

Solar Panel Installation

- C11. Solar panels on the dwelling as shown on the drawings shall be laid flat or titled to not more than 5 degrees above the horizontal or the angle of the roof to reduce their visual impact. Alternatively, solar tiles may be used in the locations shown on the approved roof plan (**S4.56 160 Revision A** ~~DA 160 Issue C~~).

(Reason: To minimise the impact of solar panels.

4. To delete Condition I2 - Occupancy

5. To add Condition I4 - Single Occupancy

Single Occupancy

- I4. Nothing in this consent authorises the use of the premises other than for a single occupancy.

(Reason: To ensure compliance with the terms of this consent)

Reasons for Approval:

The proposal involves several changes to the approved development, including changes to the layout and internal components of the dwelling, removing the approved secondary dwelling, minor alterations to the primary roof, additional landscaping on the second floor and modifying some of the squared corners to rounded edges within the external façade. These changes are considered minor in nature and the proposed modification will result in development that is substantially and materially (qualitatively and quantitatively) the same as approved by DA361/21 (as demonstrated in the above evaluation against provisions under Clause 4.56 of the *Environmental Planning and Assessment Act 1979*).

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including the NSLEP 2013) have been described and detailed throughout this report. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.56 of the *Environmental Planning and Assessment Act 1979*.

Accordingly, it is recommended that the following proposal description and conditions in the consent are amended:

- Modify the description of the proposal in the consent as follows:

Alterations and additions to existing dwelling, including demolition of the top floor level and its replacement with a new top floor level, new steam room and BBQ area on the lower ground floor creation of a secondary dwelling for carer/visitor accommodation and associated works.

- Amend Condition A1 to include amended plans reflecting the proposed changes.
- Amend Condition C11 to include reference to the amended roof plan.
- Deletion of Condition I2 to reflect deletion of secondary dwelling use.
- Add Condition I4 to reflect single occupancy use.

How community views were taken into account:

The approved development as proposed to be modified is in the public interest for the reasons stated throughout this report.

ADVISINGS

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

8 May 2023

DATE



Signature on behalf of consent authority
MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER