

Joseph Puccio
41 Countess Street
MOSMAN NSW 2088

D119/20
MS3 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 119/20/2 - APPROVAL

Development Consent Number: 119/20/2

Land to which this applies: 23A Lower Wycombe Road, Kurraba Point
Lot No.: 31, DP: 68342, Lot No.: 33A, DP: 3183

Applicant: Joseph Puccio

Proposal: Section 4.55(2) modification relating to alterations and additions to an existing dwelling house

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. **119/20** and registered in Council's records as Application No. **119/20/2** relating to the land described as **23A Lower Wycombe Road, Kurraba Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 21 September 2020, has been determined in the following manner:

1. To insert Condition A4 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:

Plan No	Title	Dated	Prepared	Received
A03 F	Proposed Plan	9 August 2021	Project Techniques	18 August 2021
A04 E	Elevations (North, West, Garage West and East)	9 August 2021		18 August 2021
A05 E	Elevations South and East	9 August 2021		18 August 2021
A06 D	Sections	9 August 2021		18 August 2021
A08 F	Fence Elevations	18 October 2021		18 August 2021
A21 A	Proposed Roof Plan	9 August 2021		18 August 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)

2. Amend Condition C2 Heritage Amendments as follows:

C2. The following amendments to the plans are to be made and 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:

- a) New Windows and Doors - New windows and doors are to be timber-framed
- b) Brickwork - New brickwork is to match existing where no rendered or painted. The original exposed brickwork along the southern elevation is not to be rendered or painted.
- c) Fence - The adjoining sections of fencing (clouded blue on the stamped approved plans in condition A4) on either side of the front entry gate on the Lower Wycombe Road frontage are to be reduced in height to a maximum of 1.2 m - 1.4 m (accounting for the slope of the land) above the adjacent footpath level.

(Reason: To be sympathetic to the character of the original dwelling and promote visibility of the heritage item within the conservation area)

3. Amend Condition C14 BASIX Certificate as follows:

C14. Under clause 97A(3) of the *Environmental Planning and Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **A375794_02, dated 9 August 2021** 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)

Reason for approval:

The modification application meets the requirements of section 4.55(2) 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. The proposed internal reconfiguration within the dwelling would largely retain the existing fabric and relates to the approved alterations. The additional skylights and amended window location would have no impact on the privacy of the adjoining property and would not be highly visible from the public domain.

The proposed fencing replaces the existing lapped and capped fencing with timber palisade fencing which is an appropriate style of fencing for use within the Kurraba Point Conservation Area. It is recommended that Condition C2 c) be retained in an amended form to ensure that the height of the proposed fencing is managed, particularly along the Lower Wycombe Road frontage to ensure the scale of the fencing is reasonably maintained and views are facilitated to the heritage listed dwelling from the public domain.

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 13 August 2021 until 27 August 2021. One submission was received which was addressed in the assessment report. However, it was not considered reasonable to impose the suggestion as a condition of consent in the circumstances.

The conditions attached to the original consent for Development Application No. 119/20 by endorsed date of 21 September 2020 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

19 October 2021

DATE

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