

Original signed by Robyn Pearson on 12/05/2022

Robert Harper and Debbie Dickson
C/- Kreis Grennan Architecture
94 Illawarra Road
MARRICKVILLE NSW 2204

D83/21
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 83/21/3 - APPROVAL**

Development Consent Number: 83/21

Land to which this applies: 54 Fitzroy Street, Kirribilli
Lot No.: 2, DP: 62288

Applicant: Robert Harper and Debbie Dickson
C/- Kreis Grennan Architecture

Proposal: Modification of consent for internal and external alterations
to approved works

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. **83/21** and registered in Council's records as Application No. **83/21/3** relating to the land described as **54 Fitzroy Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **19 May 2021**, has been determined in the following manner:

1. Condition A1 is amended as follows:

Development in Accordance with Plans (S4.55 Amendments)

A1. The development must be carried out in accordance with the following drawings and documents endorsed with Council's approval stamp:

No.	Title	Drawn by	Date	Received
011	Existing Ground + L1 Plans	Kreis Grennan Architecture	09/03/2021	07/04/2021
012	Existing L2 + Roof Plan	Kreis Grennan Architecture	09/03/2021	07/04/2021
013	Existing Elevations	Kreis Grennan Architecture	09/03/2021	07/04/2021
014	Existing Elevations	Kreis Grennan Architecture	09/03/2021	07/04/2021
015	Existing Section A	Kreis Grennan Architecture	09/03/2021	07/04/2021
016	Existing Section B	Kreis Grennan Architecture	09/03/2021	07/04/2021
020	Site Plan	Kreis Grennan Architecture	09/03/2021	07/04/2021
024	Recycling + Waste Management Plan	Kreis Grennan Architecture	09/03/2021	07/04/2021

100	Ground Plan + L1 Plan	Kreis Grennan Architecture	09/03/2021	07/04/2021
101	L2 Plan + Roof Plan	Kreis Grennan Architecture	09/03/2021	07/04/2021
200	Elevation A	Kreis Grennan Architecture	09/03/2021	07/04/2021
201	Elevation B	Kreis Grennan Architecture	15/03/2021	07/04/2021
300	Section A	Kreis Grennan Architecture	15/03/2021	07/04/2021
301	Section B	Kreis Grennan Architecture	09/03/2021	07/04/2021
302	Section C	Kreis Grennan Architecture	15/03/2021	07/04/2021
350	Schedule of Colour and Finishes	Kreis Grennan Architecture	15/03/2021	07/04/2021

Except as modified as such on the following drawings for DA 83/21/2:

No.	Title	Drawn by	Date	Received
005	Notification Plan	Kreis Grennan Architecture	30/09/2021	08/10/2021

Except as modified as such on the following drawings for DA 83/21/3:

Plan No.	Revision	Title	Drawn by	Dated	Received
011	A	Existing Ground + L1 Plans	Kreis Grennan Architecture	04/04/2022	07/04/2022
012	A	Existing L2 + Roof Plan	Kreis Grennan Architecture	04/04/2022	07/04/2022
013	A	Existing Elevations	Kreis Grennan Architecture	04/04/2022	07/04/2022
014	A	Existing Elevations	Kreis Grennan Architecture	04/04/2022	07/04/2022
015	A	Existing Section A	Kreis Grennan Architecture	04/04/2022	07/04/2022
016	A	Existing Section B	Kreis Grennan Architecture	04/04/2022	07/04/2022
020	A	Site Plan	Kreis Grennan Architecture	04/04/2022	07/04/2022
100	A	Ground Plan + L1 Plan	Kreis Grennan Architecture	04/04/2022	07/04/2022
101	A	L2 Plan + Roof Plan	Kreis Grennan Architecture	04/04/2022	07/04/2022
200	A	Elevation A	Kreis Grennan Architecture	04/04/2022	07/04/2022
201	A	Elevation B	Kreis Grennan Architecture	04/04/2022	07/04/2022
300	A	Section A	Kreis Grennan Architecture	04/04/2022	07/04/2022
301	A	Section B	Kreis Grennan Architecture	04/04/2022	07/04/2022
302	A	Section C	Kreis Grennan Architecture	04/04/2022	07/04/2022

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

2. Condition C14 is modified as follows:

BASIX Certificate

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. **A407838_04**, dated 23 March 2022, 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. Condition C16 is added as follows:

Chimney/Flue Discharge Location

- C16. The height of the chimney/flue must be in accordance with the requirements of the Building Code of Australia, and any relevant Australian Standard applicable to the type and nature of heating appliance installed.

Plans and specifications which comply 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.

Note: If the design of the chimney/flue approved by this consent needs to be altered to achieve compliance with this requirement, an application to modify this development consent may be required, depending on the nature of the changes required.

(Reason: To ensure compliance with appropriate environmental standards and protect residential amenity arising from chimney and flue installations)

Reasons for Approval:

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposed development remains consistent with what was approved by DA 83/21. The proposed modifications will not alter the use of the development as originally approved and will significantly reduce the form and overall changes as approved by DA 83/21

The proposed modifications would not significantly change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013. There would be no undue impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains consistent with the objectives of the R3 (Medium Density Residential) Zone, and the original reasons for granting consent.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved.

How community views were taken into account:

The subject application was notified to adjoining properties and the Milson Precinct Committee (Bradfield Precinct Committee being inactive) seeking comment between 29 April 2022 and 13 May 2022. No submissions were received.

ADVISINGS

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

12 May 2022

DATE

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