

Annexure B

DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Modification Application No:	DA533/2017/2
Development Consent modified:	DA533/2017/1
Description of development to be carried out under the consent:	substantial demolition and reconstruction of an existing dwelling, a new carport, landscaping and site works, and rectification works to an existing sea wall.
Address and particulars of title of land on which development to be carried out:	4 Cove Street, Watsons Bay (Lot 2 in DP 978780)
Description of modification to the development consent:	redesign of approved dwelling house and roof form including internal reconfiguration, replacement of carport with double garage, introduction of chimney and changes to approved landscaping.

Determination: The development consent is modified as follows:

1. Insert new conditions as follows:

A.9 Approved Amended (section 4.55) Plans and Supporting Documents (inserted by DA533/2017/2)

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp "Approved" and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
00 Rev E – Site Plan	Architectural Plans, Project No. 1/2022	David Katon Studio Pty Ltd	03/08/2022
01 Rev E – Ground Floor Plan			03/08/2022
02 Rev E – First Floor Plan			03/08/2022
03 Rev G – Elevations N/S			17/08/2022
04 Rev G – Elevations E			17/08/2022
05 Rev G – Elevation W			17/08/2022
06 Rev G – Section			17/08/2022
07 Rev G – Roof Plan			17/08/2022
15 Rev E – Front Fence			03/08/2022
17 Rev E – View Lines			03/08/2022
18 – Demolition Plans		David Katon Studio Pty Ltd	23/08/2022
19 – Demolition Plans			23/08/2022
20 – Demolition Plans			23/08/2022
A4728289	BASIX Certificate	Sustain Build Projects	05/09/2022
Plan No. 12/E	Landscape Plan	David Katon Studio Pty Ltd	03/08/2022
16 Rev E - Finishes	Sample Board	David Katon Studio Pty Ltd	03/08/2022
Site Waste Minimisation and Management Plan Demolition and Construction			09/09/2022

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

B.7 Aboriginal Objects – Unexpected Findings (inserted by DA533/2017/2)

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.
- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

B.8 Aboriginal Heritage Due Diligence Responsibilities (inserted by DA533/2017/2)

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

I.4 Public view corridor (inserted by DA533/2017/2)

To retain and restore view corridors between the street and the harbour, any landscaping located within the side setbacks to the south of the front elevation shall be a maximum mature height of 2m and any landscaping located within the side setbacks to the north of the front elevation shall be a maximum mature height of 1m, all remaining proposed landscaping within the front setback shall not exceed a maximum height of 5m at maturity.

2. Amend conditions C.1, C.3, C.10, E.19, H.1 and I.1 to read as follows:**C.1 Modification of details of the development (Section 80A(1)(g) of the Act) (amended by DA533/2017/2)**

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the following amendments:

- a) The proposed decking structure adjacent to the seaside is prohibited under Clause 6.4(2) of the WLEP 2014 and shall be deleted.
- b) **Deleted under DA533/2017/2**
- c) **Deleted under DA533/2017/2**
- d) **Deleted under DA533/2017/2**
- e) The proposed skid forms water based development in accordance with the SREP (Sydney Harbour Catchment) 2005 and as Council is not the consent authority for water-based development, no approval is granted and the skid shall be deleted.
- f) **Deleted under DA533/2017/2**
- g) **Deleted under DA 533/2017/2**
- h) **The metal roofing is to be Colourbond Shale Grey colour.**

C.3 BASIX Commitments (amended by DA533/2017/2)

The Applicant must submit to the Certifying Authority BASIX Certificate No. **A4728289** with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with

development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".

E.19 Replacement/Supplementary trees which must be planted (amended by DA533/2017/2)

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2015). The replacement tree shall be planted in *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Maximum Dimensions at Maturity (metres)
2 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	Front yard	400 litres each	5 x 4
2 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	Rear yard	400 litres each	5 x 4
2 x <i>Phoenix robellini</i> (Dwarf Date palm) OR 2 x <i>Howea forsteriana</i> (Kentia palm)	Eastern side courtyard	100 litres each	Maximum height 8 x 3 each

The project arborist shall document compliance with the above condition.

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation* (amended by DA533/2017/2)

All BASIX commitments must be effected in accordance with the BASIX Certificate No. **A4728289**.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

I.1 Maintenance of BASIX Commitments (amended by DA533/2017/2)

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. **A4728289**.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

3. Delete condition C.10 Amended Landscape Plan