



Anthony Phillip Pizzolato
218 Edinburgh Road
CASTLECRAG NSW 2068

D180/21
TH2 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 180/21/3 - APPROVAL**

Development Consent Number: 180/21

Land to which this applies: 17 Bray Street, North Sydney
Lot No.: 5, DP: 80550

Applicant: Anthony Phillip Pizzolato

Proposal: To modify a consent for alterations and additions to the 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. **180/21** and registered in Council's records as Application No. **180/21/3** relating to the land described as **17 Bray Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 December 2021, has been determined in the following manner:

A. Add Condition A5 as follows:

Development in accordance with Plans (s4.55 Amendments)

A5. The development being carried out in accordance with plans identified in Condition A1 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
DAMod1004	-	Site Plan	Rapid Plans	20/05/2022
DAMod1009	-	Demolition Ground Floor Plan	Rapid Plans	20/05/2022
DAMod1010	-	Demolition Roof Plan	Rapid Plans	20/05/2022
DAMod1011	-	Excavation and Fill Plan	Rapid Plans	20/05/2022
DAMod2001	-	Garage Plan	Rapid Plans	20/05/2022
DAMod2002	-	Ground Floor Plan	Rapid Plans	20/05/2022
DAMod2003	-	First Floor Plan	Rapid Plans	20/05/2022

DAMod2004	-	Roof Plan	Rapid Plans	20/05/2022
DAMod3000	-	Section 1	Rapid Plans	20/05/2022
DAMod3001	-	Section 2	Rapid Plans	20/05/2022
DAMod4000	-	Elevations 1	Rapid Plans	20/05/2022
DAMod4001	-	Elevations 2	Rapid Plans	20/05/2022
DAMod4002	-	Elevations 3	Rapid Plans	20/05/2022
DAMod1014	-	Landscape Plan	Rapid Plans	20/05/2022

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

B. Modify Conditions C16, G6, G8 and I1 as follows:

BASIX Certificate

C16. 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. ~~(A417625_02)~~ (A417625_03) 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 be sympathetic to the original dwelling)

Landscaping

G6. ~~The landscaping shown to be approved via condition C17. 'Amendments to the Landscape Plan' must be completed prior to the issue of any Occupation Certificate.~~

The landscaping shown in the approved landscape plan numbered DAMod1014 prepared by Rapid Plans dated 04 April 2022 and received by Council on 20 May 2022 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Compliance with Certain Conditions

G8. Prior to the issue of any Occupation Certificate, Condition C7 'Heritage - New Window and Door Set', ~~C9 'Porous Paving', C13 'Screen Planting' and C17 'Amendments to the Landscape Plan'~~ must be certified as having been implemented on site and complied with.

(Reason: To be sympathetic to the original dwelling)

Maintenance of Approved Landscaping

I1. The owner of the premises is to maintain the landscaping approved and required by this consent generally in accordance with the Landscape Plan ~~(DA1014 Rev 6) as modified by condition C17. 'Amendments to the Landscape Plan'~~ (DAMod1014) dated 04 April 2022.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering or non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To be sympathetic to the original dwelling)

C. Delete Conditions C9, C13, C17 and G7 as follows:

Porous Paving

C9. The proposed paved area to the rear of the dwelling (clouded in red on the Ground Floor Plan, DA2002 Rev 6 and Landscape Plan, DA1014 Rev 6) must be paved with materials to allow stormwater infiltration to the substrate. 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.

(Reason: To ensure that the proposed development is in keeping with the surrounding area)

Screen Planting

C13. To maintain acceptable levels of privacy, screen planting must be installed and maintained adjacent to the North, East and West parameters of the rooftop garden within the front setback of the site in locations shown on the Ground Floor Plan (DA2002 Rev 6) and Landscape Plan (DA1014 Rev 6) clouded red on the stamped approved plans. The required screen planting must consist of *Murraya paniculata* or another suitable screening species. Details of the screen planting required by this condition must be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the details submitted fully satisfy the requirements of this condition.

(Reason: To preserve the privacy of adjoining properties)

Amendments to the Landscape Plan

C17. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- Additional landscaping is to be provided within the side setback between the dwelling and western side boundary adjacent to 15 Bray Street (the area is clouded in red on the Landscape Plan, DA1014 Rev 6 and Ground Floor Plan, DA2002 Rev 6).
- The rear patio and retaining wall should be reduced to 2.2 m in depth as measured from the rear building line (the rear patio including retaining wall is clouded and annotated in red on the Landscape Plan, DA1014 Rev 6 and Ground Floor Plan, DA2002 Rev 6).
- If a retaining wall is required to surround the proposed rear patio the height of the retaining wall must not exceed 1.5 m.
- Screening plants must be provided along the North, East and West perimeters of the rooftop garden within the front setback of the site in locations shown on the Ground Floor Plan (DA2002 Rev 6) and Landscape Plan (DA1014 Rev 6) clouded red on the stamped approved plans. The required screen planting must consist of *Murraya paniculata* or another suitable screening species. Nominated screen plant specimens must be advanced growth and have a minimum height of 1 metre at installation.

An amended landscape plan 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 amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To preserve the privacy of adjoining properties)

Required Screen Plantings

G7. The screen planting required by this consent must be completed prior to the issue of any Occupation Certificate. The specified landscape elements must be provided and maintained in accordance with the requirements of this consent at all times.

(Reason: To ensure privacy is maintained)

Reasons for Approval:

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 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 granting of development consent to the originally approved development and are considered to be acceptable.

The amendments to the size and height of the first floor addition are minor maintaining a first floor addition which is a sympathetic addition maintaining the single storey character of the dwelling. The first floor addition remains sufficiently setback from corresponding boundaries including the front boundary so as to have a limited visual impact on the streetscape and Whaling Road Conservation Area.

The modifications seek an improved landscape outcome reducing the depth of the rear patio and proposing landscaping within the western side setback. The landscaped areas within the site including the landscaped rooftop garden within the front setback ensure that the site provides sufficient landscaping and contributes to the landscaped character of the street.

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 notified to adjoining properties and Anderson Precinct inviting comment between 3 June and 17 June 2022. There were no submissions raised following notification of the modification application. Nevertheless, neighbouring amenity and the public interest was considered in the assessment.

The conditions attached to the original consent for Development Application No. 180/21 by endorsed date of 3 December 2021 still apply.

ADVISINGS

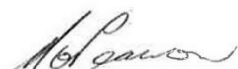
- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Thomas Holman** However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as 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

7 November 2022

DATE



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