



Ms Nicci Johnson
19 Binnari Road
HORNSBY HEIGHTS NSW 2077

D218/21
TH2 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 218/21/2 - APPROVAL**

Development Consent Number:	218/21
Land to which this applies:	58 Colin Street, Cammeray Lot No.: 26, SEC: 5, DP: 2407
Applicant:	Nicola Mary Johnson
Proposal:	To modify a consent for alterations and additions to a detached dwelling

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. **218/21** and registered in Council's records as Application No. **218/21/2** relating to the land described as **58 Colin Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **7 October 2021**, has been determined in the following manner:

A. Add Condition C17 as follows:

C17 Tree Planting

The following tree is required to be planted and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location	Container Size (l)
1 x <i>Tristaniopsis laurina</i>	Within grass verge opposite 58 Colin Street	75 l

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 that tree planting provided enhances environmental and landscaped amenity)

B. Modify Conditions C10, C11 and G4 as follows:

C10 Tree Bond for Public Trees

Prior to the issue of any construction certificate, security in the sum of \$3,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree	Location	Container Size (l)	Tree Bond
1 x <i>Tristaniopsis laurina</i>	To be planted within grass verge opposite 58 Colin Street subject to Condition C17 Tree Planting	75 l	\$3,000.00

(Reason: Protection of environment public infrastructure, community assets and significant trees)

C11 Protection of Trees

The following tree once planted, is required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location	Container Size (l)
1 x <i>Tristaniopsis laurina</i>	To be planted within grass verge opposite 58 Colin Street subject to Condition C17 Tree Planting	75 l

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.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

G4 Certification of Tree Condition

Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Container Size (l)
1 x <i>Tristaniopsis laurina</i>	To be planted within grass verge opposite 58 Colin Street subject to Condition C17 Tree Planting	75 l

The report must detail the condition and health of the nominated tree(s) upon completion of the works and shall certify that the tree(s) has/have not been significantly damaged during the works on the site and has/have reasonable prospects for survival.

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

Reasons for Approval:

The proposed modification application involves a replacement street tree '*Callistemon viminalis*' which was removed prior to construction as approved under Development application No. 218/21 to be replaced with a new street tree '*Tristaniopsis laurina*'. The new tree would promote the landscaped character of the locality and the conservation area generally.

Subject to appropriate conditions of consent for tree planting and protection of the street tree the development will remain generally consistent with the originally approved development application and s.4.55 of the EP&A Act 1979.

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 not notified to adjoining properties or the Plateau Precinct in accordance with directions in s3.4.2 of the North Sydney Community Engagement Protocol.

Nonetheless, one submission was received that raised concerns about the reasons for the tree removal that were found to be acceptable in the site circumstances subject to the provision of a new street tree.

The conditions attached to the original consent for Development Application No. 218/21 by endorsed date of **7 October 2021** still apply.

ADVISINGS

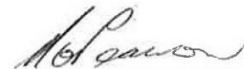
- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Thomas Holman**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979*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

14 November 2022

DATE



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