



Hector Abrahams Architects Pty Ltd
C/- Yuan Lu Nee
Level 2, 1 Barrack Street
SYDNEY NSW 2000

D266/20/3
RW (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 266/20/3 - APPROVAL**

Development Consent Number:	266/20
Land to which this applies:	26 Euroka Street, Waverton Lot No.: X DP: 110104
Applicant:	Hector Abrahams Architects
Proposal:	To modify a consent DA266/20 to provide for a first-floor addition, replacement of existing side gate, reinstatement of fence and gate at ground floor front verandah, and replacement of paved surface at upper terrace with soft landscape

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. **266/20** and registered in Council's records as Application No. **266/20/3** relating to the land described as **26 Euroka Street, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **1 February 2021**, has been determined in the following manner:

A. Add Condition A4 as follows:

Development in Accordance with Plans/Documentation (s4.55 Amendments)

A1. The development being carried out in accordance with plans identified in Condition A1 of the consent and A4 of the modification to consent endorsed with Council's approval stamp, except as modified by the modifications shown on:

Plan Nos.	Issue/ Rev	Description of Works	Prepared by	Dated
100	S4.55/A	Site Plan, Roof Plan, Site Analysis	Hector Abrahams Architects	07/10/2022
101	S4.55/2	Proposed Ground Floor Plan, First Floor Bathroom	Hector Abrahams Architects	29/09/2022
102	S4.55/2	Proposed Elevations - First Floor Bathroom	Hector Abrahams Architects	29/09/2022
103	S4.55/1	Proposed Sections - First Floor Bathroom	Hector Abrahams Architects	07/10/2022

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

C. Add Conditions C18, C19, C20, C21 and C22 as follows:

Works to be Reversible

C18. The proposed works relating to the portion of the new bathroom within the rear bedroom is to be undertaken in such a manner as to enable the works to be contained within the floor and wall voids, must not be visible externally to the dwelling and must be reversible. The bathroom utility fittings (plumbing connections) are to be carried out from below the floorboards and/or behind a services wall to minimise the impact on fabric, details of which are to be submitted to Council prior to the issue of the relevant CC. Written Certification must be obtained from the heritage architect supporting the design.

(Reason: To protect the significance of the heritage item and the character and significance of the Union, Bank, Thomas Street Conservation Area by utilising traditional materials characteristic to the heritage item and the conservation area)

Proposed Addition to Match Principal Dwelling

C19. That the rendered finish on the fibre cement sheeting is to be painted to match the painted render on the southern elevation of the principal dwelling. The galvanized steel sheeted roof shall match the corresponding elements of the principal dwelling.

(Reason: To protect the significance of the heritage item and the character and significance of the Union, Bank, Thomas Street Conservation Area by utilising traditional materials characteristic to the heritage item and the conservation area)

Details of Proposed Fence and Gate

C20. That details of the proposed '*historically appropriate fence and gate*' labelled on the architectural plans are to be prepared in consultation with a consulting heritage architect and submitted to Certifying Authority and Council prior to the issue of the relevant CC. Written Certification must be obtained from the heritage architect supporting the design.

(Reason: To protect the significance of the heritage item and the character and significance of the Union, Bank, Thomas Street Conservation Area by utilising traditional materials characteristic to the heritage item and the conservation area)

Colours, Materials and finishes (Conservation Areas)

C21. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area.)

Heritage Architect to be Commissioned

C22. An appropriately qualified and experienced heritage architect must be commissioned to assist the design development, contract documentation and overseeing of construction works for the additions to the southern elevation and the approved fence and gate. This should include a written undertaking that the appointed architect undertake inspections of the works in progress and providing advice in relation to heritage matters.

Written details of the engagement of the experienced heritage architect must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Note: If advice provided by the heritage architect is to the effect that works requiring development consent be carried out, such works would require an application under s96 of the Environmental Planning and Assessment Act 1979 or further development application. This condition, and any advice given by the heritage architect, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to significant fabric and spaces are resolved and recorded using best practice for heritage conservation)

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 granted of development consent to the originally approved development and is considered to be acceptable.

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 following matters have been raised in the submissions where planning comments have been made to address the concerns raised by the submitters:

- ***Proposed replacement of side fence***

Comment: The submitter addressed the concern that the architectural plan indicates that the proposed replacement/ installation of a side fence will overstep their property boundary. The applicant submitted an amendment of plans whereby the proposed side fence is within the applicant's site boundary.

How community views were taken into account:

- ***Impact on neighbour's property value***

Comment: The submitter raised the concern that the plumbing for the proposed toilet may be externally visible and consequently influence the rental/sale value of their property. Council does not consider impacts to rental/sale value in the assessment of proposals.

- ***Acoustic impact of proposed toilet from neighbour backyard***

Comment: Council only considers impacts of proposals to the living area and sleeping area. The proposal is subjected to the F1 condition to comply with the NCC in the original consent and is satisfactory in this regard.

The conditions attached to the original consent for Development Application No. **266/20** by endorsed date of **1 February 2021** still apply.

ADVISINGS

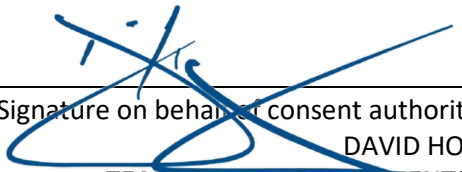
- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Rachel Wu** However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as amended),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

28 November 2022

DATE



Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)