



Bradley John Inwood
PO Box 442
PETERSHAM NSW 2049

D312/20
RB6 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 312/20/2 - APPROVAL**

Development Consent Number: 312/20

Land to which this applies: 28a Marks Street Cammeray
Lot No.: 2, DP: 1073630

Applicant: Bradley John Inwood

Proposal: To modify a consent - 'Alterations and additions to an existing 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. **312/20** and registered in Council's records as Application No. **312/20/2** relating to the land described as **28a Marks Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **9 February 2021**, has been determined in the following manner:

Modify Condition A4 as follows:

Finishes and Materials

- A4. External finishes and materials must be in accordance with the submitted schedule Drawing 0909-15A, dated 01.01.22, 'Colours and Materials,' prepared by Brad Inwood Architects, and received by Council, unless otherwise modified by Council in writing.

Note: This plan is to be annotated in relation to window W8 to ensure that it has opaque glazing.

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

Insert Condition A5:

Development in Accordance with Plans/Documentation (S.4.55 Modifications)

A5 The development must be carried out in accordance with A1 as modified by the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Dated	Description	Prepared by
0909-01A	01.01.22	Site plan	Brad Inwood Architects
0909-02A	01.01.22	Existing Ground Floor	Brad Inwood Architects
0909-03A	01.01.22	Existing First Floor Plan	Brad Inwood Architects
0909-04A	01.01.22	Ground Floor Plan	Brad Inwood Architects
0909-05A	01.01.22	First Floor Plan	Brad Inwood Architects
0909-06A	01.01.22	Roof Plan	Brad Inwood Architects
0909-07A	01.01.22	Elevations 01	Brad Inwood Architects
0908-08A	01.01.22	Elevations 02 Section	Brad Inwood Architects
0908-09A	01.01.22	Bushfire 01	Brad Inwood Architects
0909-15A	01.01.22	Colours and Materials	Brad Inwood Architects
0909-25A	01.01.22	Calculations	Brad Inwood Architects

Note: The above plans are to be amended, in relation to window W8 to ensure that it has opaque glazing and has an external louvre fitted from the lower sill on W8 to a height of 1.5m when measured from the finished floor level to the highest level of the external louvre.

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

C. *Prior to the Issue of a Construction Certificate (And Ongoing, Where Indicated)*

Modify Condition C19 to read:

Privacy

C19. The following privacy devices are to be provided:

- a) The eastern facing windows should be fitted with opaque glazing
- b) The western facing window W8 should be fitted with opaque glazing and have an external louvred privacy screen fitted from the lower sill of W8 to a height of 1.5m when measured from the finished floor level to the highest level of the external louvre.

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 an adequate level of privacy is provided to the adjoining townhouses at 26 and 30 Marks Street)

Amend Condition C25 to read:

BASIX Certificate

C25. Delete words 'BASIX Certificate No. A398853' and insert words 'BASIX Certificate No. A398853_02, dated 23/10/2022'

E. During Demolition and Building Work

Insert Condition E23 as follows:

Developer's Cost of Work on Council Property

E23 The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

G. Prior to the Issue of an Occupation Certificate

Modify Condition G1 as follows:

Infrastructure Repair and Completion of Works

G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
a. in the road reserve must be fully completed; and
b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

Reasons for Approval:

The application proposes to modify the consent for 'alterations and additions to the existing dwelling' on the subject site which is a permissible form of development in an R3 zone with development consent from Council. The proposed modifications are consistent with the originally approved development application and section 4.55 of the EP&A Act 1979. The modification does not result in any material amenity impact to adjoining properties or the surrounding area and complies with the permissible height limit, the required side and rear setbacks and is appropriate in the site context.

There would be no undesirable impacts in terms of overshadowing, visual and/or acoustic privacy nor any view loss for adjoining properties arising from the proposed changes. The proposal complies with site coverage, unbuilt upon and landscaped areas. The pool generally complies with the swimming pool controls within NSDCP 2013 with a minor non-compliance with the distance of the pool with the nearest habitable room within the adjoining property. This is acceptable due to the compliant side setback of the pool, and the existing lapped and capped timber fence with vegetation. The non-compliance with the proposed height of the pool is also acceptable given its location at the rear of the dwelling, the dense vegetation, and the fencing on the eastern and western boundaries.

Council received three submission from the one property that raised concerns about privacy in relation to window W8 and window W7. This has been addressed in the planning report and an appropriate condition of consent for window W8 to have opaque glazing and have an external louvre fitted from the lower sill on W8 to a height of 1.5m when measured from the finished floor level to the highest level of the external louvre will be imposed to maintain residential amenity.

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. Having regard to the provisions of sections 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 by Council. The application is therefore recommended for **approval** subject to conditions.

How community views were taken into account:

The subject application was notified to adjoining properties and the Precinct for 14 days where one issue was raised that have been addressed in the assessment report where an appropriate condition of consent has been recommended to maintain the amenity of adjoining properties.

The conditions attached to the original consent for Development Application No. **312/20** by endorsed date of **9 February 2021** still apply.

ADVISINGS

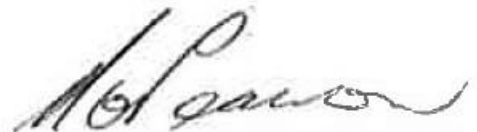
- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Ruth Bennett**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as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

6 March 2023

DATE



Signature on behalf of consent authority

ROBYN PEARSON

TEAM LEADER (ASSESSMENTS)