



John Corrigan  
PO Box 392  
CAMMERAY NSW 2062

D106/18  
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 106/18/4 - APPROVAL**

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**Development Consent Number:** 106/18

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**Land to which this applies:** 29 Cowdroy Avenue, Cammeray  
Lot No.: 54A, DP: 14815

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**Applicant:** John Corrigan

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**Proposal:** Modifications to Development Consent DA106/18 including deletion of an approved swimming pool, fenestration changes and replacement of a retaining wall at the rear

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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. **106/18** and registered in Council's records as Application No. **106/18/4** relating to the land described as **29 Cowdroy Avenue, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **1 August 2018**, has been determined in the following manner:

**1. Condition A1 is amended as follows:**

**Development in Accordance with Plans (S4.55 Amendments)**

A1. The development must be carried out in accordance with the following drawings and documents endorsed with Council's approval stamp:

Drawing No.	Revision	Title	Drawn by	Dated
A-001	DA-3	Site Plan	BW	7/09/2018
A-100	DA-3	Garage Level Plan	BW	7/09/2018
A-101	DA-3	Entry Level Plan	BW	7/09/2018
A-102	DA-3	Ground Floor Plan	BW	7/09/2018
A-103	DA-3	First Floor Plan	BW	7/09/2018
A-200	DA-3	North Elevation	BW	7/09/2018
A-201	DA-3	South Elevation	BW	7/09/2018
A-202	DA-3	East Elevation	BW	7/09/2018
A-203	DA-3	West Elevation	BW	7/09/2018
A-204	DA-3	Western Pool Elevation	BW	7/09/2018
A-300	DA-3	Section A	BW	7/09/2018

A-301	DA-3	Section B	BW	7/09/2018
A-302	DA-3	Section C	BW	7/09/2018
A-304	DA-3	Eastern Pool Elevation	BW	7/09/2018
A-304	DA-3	Swimming Pool Cross Section	BW	7/09/2018
LS01, Sheet 1 of 1	DA-3	Landscape Plan	Melissa Wilson	4/09/2018

Except as modified as such on the following drawings for DA 106/18/2:

Drawing No.	Issue	Title	Drawn by	Dated
A-001	4.55	Site Plan	Belinda Walter	4/12/2021
A-100	4.55	Garage Level Plan	Belinda Walter	4/12/2021
A-101	4.55	Entry Level Plan	Belinda Walter	4/12/2021
A-200	4.55	North Elevation	Belinda Walter	4/12/2021
A-301	4.55	Section B	Belinda Walter	4/12/2021

Except as modified as such on the following drawings for DA 106/18/4:

Drawing No.	Issue	Title	Drawn by	Dated
A001	4.55_2	Site Plan	BW	10/03/2023
A101	4.55_2	Entry Level Plan	BW	10/03/2023
A102	4.55_2	Ground Floor Plan	BW	10/03/2023
A103	4.55_2	First Floor Plan	BW	10/03/2023
A200	4.55_2	North Elevation	BW	10/03/2023
A201	4.55_2	South Elevation	BW	10/03/2023
A202	4.55_2	East Elevation	BW	10/03/2023
A203	4.55_2	West Elevation	BW	10/03/2023
A305	4.55_2	Section Through Entry	BW	10/03/2023
L-01	B	Landscape Plan	Ecodesign	13/10/2022
L-02	B	Landscape Detail	Ecodesign	13/10/2022

Except as amended by the following conditions and this consent.

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

**2. Condition C17 is amended as follows:**

**Screen Planting**

C17. To maintain acceptable levels of privacy, screen planting must be installed and maintained adjacent to the full length of the western side of **the northern terrace above the garage within the front setback**. The required screen planting must consist of suitable screening species capable of attaining a mature height of 2.0-2.5 metres above finished ground levels. 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)

**3. Conditions C18 (Pool Access), C19 (Swimming Pool Access to Sewer), and C20 (Pool Filter) are deleted.**

**4. Condition C22 is amended as follows:**

**BASIX Certificate**

C22. Under Section 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **A307429\_04** (dated 12 March 2023) 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 ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

**5. A new Condition C23 is added as follows:**

**Landscape Amendments**

C23. The landscape plans approved as per Condition A1 of this consent, must be amended as follows:

- 1) The landscape plan numbered L-01 and L-02, prepared by Ecodesign, and dated 13 October 2022, must be amended to reflect the following details within the landscape plan numbered LS01, prepared by Melissa Wilson, dated 4 September 2018, as required by condition AA2 of this consent:
  - a. Maintenance of the existing rear bamboo screen at 4m in height;
  - b. Pruning of the existing Tuckeroo trees within the rear garden to maintain at height RL 37.00
  - c. The removal of the existing Bangalow palms within the north-western corner of the site/western side setback.

Amended plans 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 plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure an appropriate landscaped context and to demonstrate compliance with Council's controls)

**6. Conditions G3 (Pool Access) and G4 (Pool Safety Requirements) are deleted.**

**7. Condition G7 is amended as follows:**

**BASIX Completion Certificate**

G7. In accordance with Section 45 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, prior to issuing a final occupation certificate the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

8. Condition G11 is amended as follows:

Landscaping

G11. The landscaping approved under Condition AA2 and the Landscape Plans (Plan Nos. L-01 and L-02), prepared by Ecodesign, and dated 13 October 2022, as amended by Condition C23 of this consent, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

9. Condition I1 (Pool Filter) is deleted.

Reasons for Approval:

The proposed modifications satisfy the provisions of Section 4.55(2) of the Act in that the proposed development remains substantially the same as what was approved originally by DA 106/18. The proposed modifications will not alter the use of the development as originally approved and amenity impacts remain acceptable. The proposed modifications would not significantly change the level of compliance with the relevant development standards and controls as contained in NSLEP 2013 and NSDCP 2013.

Overall, the proposed works will provide improved resident amenity without negatively impacting the neighbourhood character, the amenity of adjoining properties, or the Cammeray Neighbourhood. The proposal also remains consistent with the objectives of the C4 Environmental Living zone and the original reasons for granting consent. The proposal was found to be acceptable in the site circumstances and it is recommended that the subject Section 4.55(2) application be **approved**.

How community views were taken into account:

The subject application was notified to surrounding properties and the Bay Precinct Committee seeking comment. Three unique submissions were received. Nevertheless, it is considered that the proposed modifications would not substantially alter the potential impacts in comparison to the approved development and would not cause any unreasonable impacts to the streetscape and/or adjoining properties.

The conditions attached to the original consent for Development Application No. **106/18** by endorsed date of **1 August 2018** still apply.

ADVISINGS

(a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Andrew Beveridge**. 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**

**19 July 2023**

DATE



Signature on behalf of consent authority  
MICHAEL STEPHENS  
**A/TEAM LEADER (ASSESSMENTS)**