



Ms S Litherland
Willowtree Planning
56 Berry Street
NORTH SYDNEY NSW 2060

D326/17
MR3 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 326/17/3 - APPROVAL**

Development Consent Number: 326/17

Land to which this applies:

25 Shirley Road, Wollstonecraft
Lot No.: B, DP: 964648
Lot No.: 7376, DP: 1167508

Applicant:

S Litherland - Willowtree Planning

Proposal:

Modification application to modify Condition C32 to allow for obscure glazing screen in lieu of planter box on eastern elevation of Level 3 terrace.

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. **326/17** and registered in Council's records as Application No. **326/17/3** relating to the land described as **25 Shirley Road, Wollstonecraft**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **28 November 2018**, has been determined in the following manner:

1. To amend Condition A1 of the consent so as to read as follows:

Development in Accordance with Plans/Documentation

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

Plan No.	Rev	Description	Prepared by	Dated
S4.55-2000	A	Level 3 Terrace - Elevations and Sections	Team2 Architects	16 June 2023
S4.55-7000	A	Level 3 Terrace - Balustrade Details	Team2 Architects	16 June 2023
S4.55-1000	A	Level 3 Terrace - Plans	Team2 Architects	16 June 2023

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

2. To amend Condition C32 of the consent so as to read as follows:

Top Floor Balcony Planting

C32. To maintain acceptable levels of privacy to adjoining properties, an obscured glazed screen (RL61.00) is to be provided on the eastern edge of the level 3 terrace. In addition, a 1m wide planter box must be provided to the outer perimeter of the northern and southern edges of the balcony on the top floor of the health services building. Plantings must be installed and maintained within the planters to a mature height of 1.5 metres above finished floor level. Details of the screen planting required by this condition must be provided to the Certifying Authority for approval prior to the issue of the relevant 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)

Reasons for Approval:

The proposal involves the modification of a consent that comprises a minor change that switches the required eastern planter box within the Level 3 terrace and its replacement with a glass screen made of obscured glazing. The purpose of this change is to retain the distant horizon views to the east (from the terrace) whilst obscuring any views to neighbouring properties.

The development as modified would be essentially and materially the same development as originally approved and as such, the provisions of Section 4.55(2)(a) of the EP & A Act 1979 are satisfied. The resulting development is considered to be substantially the same development as that which was originally approved.

The proposed modification has been assessed against relevant provisions and controls under environmental planning instruments. The proposed modification is acceptable having regard for relevant provisions for privacy and built form and scale and satisfy the requirements and provisions under Section 4.55 of *the Environmental Planning and Assessment Act 1979*.

How community views were taken into account:

The application was notified to adjoining properties and the relevant Precinct Committee in accordance with Council's Community Consultation Plan from 4 to 18 August 2023. Seven (7) submissions were received during this time. The concerns raised in the submissions largely relate to concerns previously addressed in the original approval or otherwise by the conditions of consent. Matters are raised in the submissions relating to privacy and built form are considered adequately addressed by the design of the development and Condition C32 (as amended).

The conditions attached to the original consent for Development Application No. **326/17/3** by endorsed date of **28 November 2018** still apply.

ADVISINGS


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

10 October 2023

DATE


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