



Mrs Hayley Parkinson  
C/- MHDP Architects  
271 Alfred Street North  
NORTH SYDNEY NSW 2060

D360/21  
MS3 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 360/2021/3 - APPROVAL**

**Development Consent Number:** 360/21

**Land to which this applies:** 36 Cowdroy Avenue, Cammeray  
Lot No.: 1 & 2, DP: 1196786

**Applicant:** Hayley Parkinson C/- MHDP

**Date of Determination:** 18 October 2023

**Proposal:** Section 4.55(2) modification relating to alterations and additions to an existing dwelling house and garage, including installation of an inclinor.

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. **360/21** and registered in Council's records as Application No. **360/21/3** relating to the land described as **36 Cowdroy Avenue, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **22 July 2022**, has been determined in the following manner:

**A. To impose condition A5 Development in Accordance with Plans (Section 4.55 Modifications)**

**Development in Accordance with Plans (s4.55 Modifications)**

A5. 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:

Modification No. DA360/2021/3			
Plan No	Title	Prepared	Date
A100 J	Site Plan	Mark Hurcum	26/09/2023
A101 I	Roof Plan	Design Practice	4/07/2023

A102 I	L1 - Garage Plan	28/06/2023
A103 I	L2 - First Floor Plan	26/09/2023
A104 I	L3 - Living Plan	26/09/2023
A105 I	L4 - Studio Plan	26/09/2023
A201 G	South-East Elevation	28/06/2023
A202 H	North-East Elevation	26/09/2023
A203 F	South-West Elevations	27/04/2023
A204 G	North-West Elevation	28/06/2023
A300 H	Section AA	28/06/2023
A301 D	Section BB	27/04/2023
A303 F	Section CC	4/07/2023
SK12 C	Landscape Concept Plan Sheet 1	27/04/2023
SK13 E	Landscape Concept Plan Sheet 2	26/09/2023

and 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)

**B. To impose condition C19 Deletion of Retractable Awning and I3 Single Occupancy.  
Deletion of Retractable Awning**

C19. The retractable awning shown on Elevations A201 G and A204 G is to be deleted.

The Principal Certifier 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 comply with the height of buildings development standard.)

**Single Occupancy**

I3. Nothing in this consent authorises the use of the premises other than for a single occupancy.

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

**C. To amend conditions C18 BASIX Certificate, G7 Landscaping and I1 Maintenance of Landscaping**

**BASIX Certificate**

C18. 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. **A423774\_03** dated **23 June 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)

**Landscaping**

G7 The landscaping shown in the approved landscape plan numbered SK12 C Landscape Plan Sheet 1 dated **27 April 2023** and SK13 E Landscape Plan Sheet 2 dated **26 September 2023** must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

**Maintenance of Approved Landscaping**

11. The owner of the premises at 36 Cowdroy Avenue, Cammeray, is to maintain the landscaping approved by this consent generally in accordance with drawing number/s SK12 C Landscape Plan Sheet 1 dated **27 April 2023** and SK13 E Landscape Plan Sheet 2 dated **26 September 2023**.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

***D. To Delete Conditions C1 Rear Deck (Level 2 - First Floor Level) and G8 Compliance with Certain Conditions.***

~~**Rear Deck (Level 2 – First Floor Level)**~~

~~C1. The extension of the existing deck at the rear of “Level 2 – First Floor Plan” as indicated on drawing reference A103 C is to be amended to have a maximum depth of 2.7m measured perpendicularly from the rear (northern) wall of bedroom 2. The remaining roof area is to be non-trafficable and the balustrading is to be amended accordingly.~~

~~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 minimise the potential visual and acoustic privacy impacts to the adjoining property to the west (No. 34 Cowdroy Avenue).)~~

**Compliance with Certain Conditions**

~~G8 Prior to the issue of any Occupation Certificate **Condition C1** must be certified as having been implemented on-site and complied with.~~

~~(Reason: To ensure the development is completed in accordance with the requirements of this consent)~~

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**Reasons for Approval:**

The modification application meets the requirements of section 4.55(2) and has been assessed with regard to the original reasons for approval and the matters for consideration as

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outlined in section 4.15(1) of the Act, which have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

The proposed modifications are considered substantially the same development. The proposed addition to the rear of the upper most level is contained largely behind the approved entry level and would not have a material impact on existing views, solar access or privacy.

The proposed modifications are considered acceptable, subject to the deletion of the proposed rear retractable awning.

The proposed modification is therefore considered reasonable and is recommended for approval.

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**How community views were taken into account:**

The application was notified in accordance with Council's Community Engagement Protocol from 19 May 2023 until 2 June 2023. Two submissions were received and were addressed in the assessment report. Additional information was also obtained to assess the potential impacts to surrounding properties.

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The conditions attached to the original consent for Development Application No. 360/21 by endorsed date of 22 July 2022 still apply.

**ADVISINGS**

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

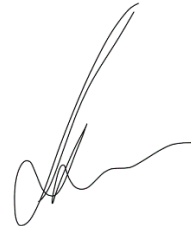
- (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes 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**

**20 October 2023**

DATE



Signature on behalf of consent authority  
ISOBELLA LUCIC  
**TEAM LEADER (ASSESSMENTS)**