

**Original signed by: Robyn Pearson Dated: 26/3/2019**

Anne Marie Clements  
PO Box 1623  
NORTH SYDNEY NSW 2059

RT(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 272/17/2 – APPROVAL**

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**Development Consent Number:** 272/17

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**Land to which this applies:** 10 Adderstone Avenue, North Sydney  
Lot No. 23, DP 14085

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**Applicant:** Anne Marie Clements

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**Proposal:** Section 4.55(2) modifications to D272/17 for alterations and additions to an existing detached dwelling including various design changes relating to the relocation of the approved lift structure and changes to the roof of the approved bedroom addition.

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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. **272/17** and registered in Council's records as Application No. **272/17/2** relating to the land described as **10 Adderstone Avenue, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 December 2017 has been determined in the following manner: -

1. To modify the development consent (D272/17) and modify conditions A1, C1, C22, I1 to read as follows:

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

- A1. The development being carried out in accordance with the following drawings numbered DA01, DA02, DA04, DA05, DA07, dated 9/08/2017, drawn by Wolski.Coppin Architecture, and received by Council on 10 August 2017, and Drawings numbered DA03 Rev A, DA06 Rev A, dated 6/11/2017, drawn by Wolski.Coppin Architecture, and received by Council on 6 November 2017, and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D272/17/2:

<b>Plan No.</b>	<b>Rev</b>	<b>Date</b>	<b>Drawn by</b>	<b>Received</b>
DA02	B	31/10/18	Wolski.Coppin Architecture	29 November 2018
DA03	C	31/10/18	Wolski.Coppin Architecture	29 November 2018
DA04	B	31/10/18	Wolski.Coppin Architecture	29 November 2018
DA05	B	31/10/18	Wolski.Coppin Architecture	29 November 2018
DA06	C	31/10/18	Wolski.Coppin Architecture	29 November 2018
DA07	A	31/10/18	Wolski.Coppin Architecture	29 November 2018

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

### **Design Modifications (D272/17/2)**

C1. The design of the proposed development must be modified to protect the amenity of nearby properties:

- (a) The relocation of the lift entrance on street level of the approved bedroom addition (RL12.72) to the northern (side) elevation.
- (b) Deletion of all balustrades to the east of the eastern building line of the external lift shaft on the roof above the bedroom addition.
- (c) Deletion of soft landscaping and stepping stones and associated ground cover treatments on the roof to the east of the eastern building line of the external lift shaft.
- (d) Installation of a BCA/NCC compliant balustrade on the street level (RL12.72) between the north-western corner of the external lift shaft and the northern edge of the roof, as marked in red on the approved plans, to restrict pedestrian access to the roof east of this new balustrade.
- (e) The roof area to the east of the eastern building line of the external lift shaft must be non-trafficable and access of this area must be for the purpose of maintenance only.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the requirement of this condition.

(Reason: To ensure residential amenity for the adjoining properties.)

### **BASIX Certificate**

C22. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A288297\_02 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)

**Roof area above the Bedroom Addition**

11. The roof area above the approved bedroom addition to the east of the eastern building line of the external lift shaft as modified by **Condition C1** in D272/17/2 must be a non-trafficable area and access to this area must be limited to maintenance only.

(Reason: To protect the amenity of the adjoining properties.)

**Reason for approval:**

The development application has been assessed against the North Sydney Local Environmental Plan 2013, North Sydney Development control Plan 2013 and relevant State Planning Policies and found to be generally acceptable in the site circumstances.

The proposed modifications would result in a development which is substantially the same development as originally approved.

The non-compliance with the LEP maximum building height is considered to be acceptable subject to the imposition of condition of consent requiring design modifications to ensure privacy protection for the adjoining properties (**Condition C1**).

The proposal modifications, as amended by conditions, would have no adverse impacts in terms of height, bulk/scale, streetscape and no material impacts on the amenity of nearby residential properties including the loss of privacy, view impacts and overshadowing.

The proposed modifications would result in a development which complies with the DCP's requirements for site coverage, unbuilt upon area and landscaped area.

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

The owners of adjoining properties and the Milson Precinct were notified of the proposed modifications between 14 December 2018 and 18 January 2019. A total of five (5) submissions were received objecting to the application. The issues raised in the submissions received are addressed in the assessment of the application including the imposition of additional conditions of consent to maintain residential amenity.

The conditions attached to the original consent for Development Application No. 272/17 by endorsed date of 13 December 2017 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robin Tse**. 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 & 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 & Assessment Act.

**Endorsed for and on behalf of North Sydney Council**

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DATE

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Signature on behalf of consent authority  
**ROBYN PEARSON  
TEAM LEADER (ASSESSMENTS)**