

Troy Jacobus McGeachie
17 Rowlison Parade
CAMMERAY NSW 2062

D306/18
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 306/18/2 – APPROVAL**

Development Consent Number: 306/18/2

Land to which this applies: 17 Rowlison Parade, Cammeray
Lot No.: 21, DP: 10001

Applicant: Troy Jacobus McGeachie

Proposal: Section 4.55(1A) modifications to D306/18 in relation to the jacaranda tree and a power pole within the front setback

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. **306/18** and registered in Council's records as Application No. **306/18/2** relating to the land described as **17 Rowlison Parade, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 26 November 2018, has been determined in the following manner: -

- To modify Conditions A1, C13, D1, E12 and G8 of the development consent (D306/18) as follows:*

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the following drawings

Drawing No.	Rev	Title	Drawn by	Dated
DA1	B	Site Plan	dawsonvu	11/10/18
DA2	B	Basement Plan	dawsonvu	11/10/18
DA3	B	Ground Floor Plan	dawsonvu	11/10/18
DA4	B	First Floor Plan	dawsonvu	11/10/18
DA5	B	Roof Plan	dawsonvu	11/10/18
DA6	B	North Elevation	dawsonvu	11/10/18
DA7	B	West Elevation	dawsonvu	11/10/18

DA8	B	South Elevation	dawsonvu	11/10/18
DA9	B	East Elevation	dawsonvu	11/10/18
DA10	B	Section A	dawsonvu	11/10/18
DA11	B	Pool – Sec. B & C	dawsonvu	11/10/18
DA24	B	Colour + Material Schedule	dawsonvu	11/10/18
DA25	B	Demolition Plan	dawsonvu	11/10/18
001	C	Landscape Master Plan	Site Image	29/08/18
101	C	Landscape Plan	Site Image	29/08/18
102	C	Landscape Plan	Site Image	29/08/18
501	B	Landscape Details	Site Image	29/08/18

and endorsed with Council’s approval stamp, except as modified by highlighting on the following drawings for D306/18/2:

Drawing No.	Rev	Title	Drawn by	Dated
CC1	C	Site Plan	dawsonvu	18/03/19

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

Tree Protection Measures to be shown on Construction Drawings

C13. The tree protection measures contained in the arborist report prepared by McArdle Arborist dated 18 October 2018, and received by Council on 19 October 2018 and the further arborist report prepared by McArdle Aboricultural Consultancy Pty Ltd, dated 12 June 2019 and received at Council on 1 July 2019, shall be shown clearly on the Construction Certificate drawings.

Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

Protection of Trees

D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with the arborist report prepared by McArdle Arborist dated 18 October 2018, and received by Council on 19 October 2018 and the further arborist report prepared by McArdle Aboricultural Consultancy Pty Ltd, dated 12 June 2019. Any recommendations must be undertaken for the duration of works on the site.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Protection of Trees

E12. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report prepared by McArdle Arborist dated 18 October 2018 and received by Council 19 October 2018 and the further arborist report prepared by McArdle Aboricultural Consultancy Pty Ltd, dated 12 June 2019 and received at Council on 1 July 2019 must be implemented for the duration of the works.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- b. An application to modify this consent pursuant to Section 96 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Compliance with Certain Conditions

G8. Prior to issue of any Occupation Certificate, Conditions C17, C18, C26 and F9 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)

2. To insert Conditions A4 and C26 as follows:

Terms of Consent (D306/18/2)

A4. Approval is granted for the following works as shown on drawings numbered CC1 Rev C, dated 18.03.19, drawn by Dawsonvu and received by Council on 1 July 2019:

- (a) Proposed pruning of one (1) stem from an existing jacaranda tree (Tree 1) within the front setback in accordance with the recommendations of the further arborist report prepared by McArdle Aboricultural Consultancy Pty Ltd, dated 12 June 2019;
- (b) Installation of a power pole within the front garden adjacent to Tree 1; and
- (c) Replacement of existing damaged retaining wall with a new retaining wall.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear)

Tree 1 – Existing Jacaranda Tree

C26. Tree 1, the *Jacaranda mimosifolia* (Jacaranda), located within the front setback, is to be retained and pruned to allow the insertion of a power pole and to reduce the risk of tree failure in accordance with the following requirements:

- (a) An experienced AQF level 5 consulting arborist must be commissioned to undertake the pruning and to supervise the installation of the power pole. Written details of the engagement of the experienced arborist must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
- (b) The tree is to be pruned on the side adjacent to the footpath to reduce the risk of tree failure, as recommended in the report by McArdle Arboricultural Consultancy Pty Ltd, dated 12 June 2019 and received at Council on 1 July 2019.
- (c) No root greater than 40mm is to be cut within the Tree Protection Zone without approval of the consultant arborist.

Note: This condition, and any advice given by the consulting arborist, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised. Tree protection measures)

The proposed modifications, involving the pruning of an existing jacaranda tree and the installation of a power pole within the front setback, would not result in changes to the overall design, bulk, scale and building envelope of the approved development and will have negligible environmental impacts on the locality and adjoining properties.

In addition, the proposed modifications would not change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013.

Reason for approval:

Council's Landscaping Officer has raised no objection to the proposal subject to the imposition of a new Condition (C26) and amendments to other tree protection conditions (i.e. Conditions C13, D1, E12) in the original Development Consent to ensure that the protection of the subject jacaranda tree with its stability and ongoing viability of this tree being retained and not compromised.

It is considered that the proposed modifications would be consistent with the reasons for granting approval for the original DA subject to the imposition of a new condition C26.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1A) application be approved with modifications to the relevant conditions.

How community views were taken into account:

Notification of the subject application was waived in accordance with Section 4.5.1 in Part A of North Sydney DCP 2013.

The conditions attached to the original consent for Development Application No. 306/18 by endorsed date of 26 November 2018 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

DATE

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