

James Tray
Cradle Design
316 Sydney Road
BALGOWLAH NSW 2093

D329/16
RP (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 392/16/2 – APPROVAL**

Development Consent Number: 329/16/2

Land to which this applies: 1 Rowlison Parade, Cammeray
Lot No.: B, DP: 184453

Applicant: James Tray

Proposal: Alterations and additions to an existing dual occupancy – increase in height of lift shaft and relocation of A/C

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. 329/16 and registered in Council's records as Application No. **329/16/2** relating to the land described as **1 Rowlison Parade, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 April 2017, has been determined in the following manner: -

1. Condition A1 is amended to include the following revised plans:-

Development in Accordance with Plans/documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Date	Title	Drawn by	Received
DA-01 Rev. B	03.01.17	Site Analysis, Stormwater & Sediment Control Plan. Ground & First Floor Demolition Plans	Cradle Design	3 February 2017
DA-02 Rev. B	03.01.17	Garage, Ground, First & Upper Floor Proposed Plans	Cradle Design	3 February 2017
DA-03 Rev. B	03.01.17	External Elevations	Cradle Design	3 February 2017
DA-04 Rev. B	03.01.17	Landscape, Site & Unbuilt Upon Area Plan, Section A-A & Photomontage	Cradle Design	3 February 2017
DA-19 Rev. B	03.01.17	Schedule of External Finishes & Materials	Cradle Design	3 February 2017

As amended by the following revised plans:-

Plan No.	Date	Title	Drawn by	Received
DA-02 Rev. C	24.09.19	Garage, Ground, First & Upper Floor Proposed Plans	Cradle Design	2 Oct 2019
DA-03 Rev.	24.09.19	External Elevations	Cradle Design	2 Oct 2019
DA-04 Rev. B	24.09.19	Landscape, Site & Unbuilt Upon Area Plan, Section A-A & Photomontage	Cradle Design	2 Oct 2019

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

2. DELETE condition C14 (Location of Plant)

3. Amend Condition C15 (Amendments to the lift) to limit the height of the lift:

Height of the lift shaft

C15. The height of the lift shaft should not exceed RL54.75 to minimise the visual mass of this structure when viewed from adjoining properties and the public domain.

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 maintain streetscape character and residential amenity)

4. Two new conditions to be included in the consent as follows:-

Air Conditioners in Residential Premises

C16. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
 - (ii) before 7.00am or after 10.00pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

Noise impact

11. The ongoing use of the premises approved under this consent must comply with all conditions pertaining to noise as specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and to maintain the amenity of surrounding land uses)

The variation to the building height development standard is acceptable in the site circumstances given that there would be no loss of residential amenity and/or adverse impacts on the streetscape.

Reason for approval:

Generally, the proposal is considered to be consistent with the desired future character of the Cammeray Neighbourhood and be of an appropriate bulk and scale so as to have limited visibility from Rowlison Parade and the public domain.

How community views were taken into account:

The subject application was notified to adjoining properties and the Bay Precinct inviting comment from 18 October 2019 and 11 November 2019 whereupon two (2) submissions were received that have been addressed in the report. Furthermore, other conditions were imposed with the original approval to address residential amenity.

The conditions attached to the original consent for Development Application No. 329/16 by endorsed date of 5 April 2017 still apply.

ADVISINGS

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