

Original signed by: Geoff Mossemear Dated: 3 June 2020.

Mr Rishi & Mrs Rachna Chandra
61/55 Carter Street
CAMMERAY NSW 2062

D72/18
GM(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 72/18/2 – APPROVAL**

Development Consent Number: 72/18/2

Land to which this applies: 50 West Street, North Sydney
Lot No.: 1, DP: 919652

Applicant: Mr Rishi & Mrs Rachna Chandra

Proposal: To modify consent for alterations and additions to dwelling including new first floor.

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. **72/18** and registered in Council's records as Application No. **72/18/2** relating to the land described as **50 West Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 August 2018, has been determined in the following manner: -

To delete conditions C11 and C12 and impose the following new conditions namely:

Protection of Trees

C11. The following tree(s) are required to be retained and protected as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height (m)
Fraxinus angustifolia (Claret Ash)	Street tree on verge outside 52 West St	14
Banksia integrifolia (Coastal Banksia)	Northern boundary of 46-48 West St	10

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.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Pruning of Trees

- C12. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Tree	Location	Height (m)
Banksia integrifolia (Coastal Banksia)	Northern boundary of 46-48 West St	10

A report detailing the measures to be employed during construction shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. All measures required by the said report must be complied with at all times in the carrying out of the development.

(Reason: To ensure the protection and longevity of existing significant trees)

Trees to be Removed

- E17. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal: -
- i. *Mangifera indica* (Mango) - Rear garden

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

Required Tree Planting

- G3. On completion of works and prior to the issue of an Occupation Certificate a replacement tree in accordance with the schedule hereunder must be planted on site.

Schedule

Tree Species	Location	Pot Size
<i>Brachychiton acerifolius</i> , or <i>Elaeocarpus reticulatus</i>	At or near where the removed Mango tree was located in the rear garden	75 litre

The installation of such tree, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure that replacement plantings are provide to enhance landscaped amenity)

Reason for approval:

The proposed modification is considered to be consistent with the originally approved development application and s.4.55 of the *EP & A Act, 1979*. The proposed modification is consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55 & 4.15(1) of the *Environmental Planning and Assessment Act, 1979*, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

How community views were taken into account:

The owners of adjoining properties and the Hayberry Precinct were notified of the proposal on 15 May 2020. The notification resulted in no submissions.

The conditions attached to the original consent for Development Application No. 72/18 by endorsed date of 72/18/2 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
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER