

Housed by Nanna Lesiuk
PO Box 275
AVALON NSW 2107

D332/19
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 332/19/2 – APPROVAL**

Development Consent Number: 332/19/2

Land to which this applies: 21 Hipwood Street, North Sydney
Lot No.: 0, DP: SP 82801

Applicant: Housed by Nanna Lesiuk

Proposal: Section 4.55(2) modifications to DA 332/19 for various modifications to a residential flat building.

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. **332/19** and registered in Council's records as Application No. **332/19/2** relating to the land described as **21 Hipwood Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 12 December 2019, has been determined in the following manner: -

1. Condition A4 is inserted as follows:

A. Conditions that Identify Approved Plans

Development in Accordance with Plans (S4.55 Amendments)

A4. 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:

Drawing No.	Title	Drawn By	Date	Received
MOD.01.00	Site Analysis – Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020
MOD.02.01	Ground Floor – Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020
MOD.02.02	Upper Floor - Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020

MOD.02.03	Elevations North - Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020
MOD.02.04	Elevations South – Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020
MOD.02.05	Elevations West - Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020
MOD.02.06	Elevations East - Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020
MOD.02.07	Section - Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020
MOD.03.00	Landscape - Proposed	Housed by Nanna Lesiuk	June 2020	05/06/2020

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)

2. Condition C7 is replaced as follows:

C. Prior to the Issue of a Construction Certificate

Protection of Trees

C7. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height
1 x <i>Leptospermum petersonii</i>	The northern boundary of 21 Hipwood Street.	9m
7 x <i>Howea forsteriana</i>	The eastern boundary of 21 Hipwood Street	Various

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)

3. Condition C12 is amended as follows:

Amendments to the Landscape Plan

C12. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- 1) The curved path area located within the front setback in the northwest corner of the site, and the southern side pathway must be converted into lawn or some other form of soft landscaping, to demonstrate an improvement towards the landscaped area and un-built upon area controls.

- 2) The northern side pathway behind the stairs and side gate must be converted into lawn or some other form of soft landscaping, to demonstrate an improvement towards the landscaped area and un-built upon area controls.
- 3) Existing planting approved for removal as per **Condition C15** shall be removed by a qualified arborist (AQ3), and all roots and below ground matter shall be ground/removed from site.
- 4) A Polyethylene root barrier shall be installed around the perimeter of the rear garden to prevent any new roots extending beyond the boundary of the subject site, prior to the installation of new trees.
- 5) A fully automatic drip irrigation system shall be installed to both front and rear faces of the garden beds in the rear garden, and the top of the boundary trees approved by this consent and modified as per **Condition C14** shall be hedged at least 3 times per year as part of a maintenance schedule.

All of the above shall be included on an amended landscape plan, and the installation of and, health, vigour and likely continued longevity of the replacement trees shall be certified by a qualified horticulturalist prior to the issue of any Occupation Certificate as per **Condition G5**.

An amended landscape plan 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 amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity and to demonstrate compliance with Council's controls)

4. Conditions C14 and C15 are inserted as follows:

Screen Planting

- C14. To maintain acceptable levels of privacy and amenity for adjoining properties, screen planting must be installed and maintained between the northern boundary with No. 7 Adderstone Avenue, to replace the existing trees along the northern boundary. These replacement trees must be able to achieve a similar height at maturity and dense canopy, must be a minimum 75ml pot size and must not be deciduous or fruit-producing. Details of the screen planting required by this condition must be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the details submitted fully satisfy the requirements of this condition. The species planted, when mature, shall be compliant with AS 1926 1-2012.

(Reason: To preserve the privacy of adjoining properties)

Approval for Removal of Trees

C15. The following tree(s) are approved for removal in accordance with the development consent:

Trees that are acceptable to remove	Location	Height
15 x <i>Cupressocyparis leylandii</i> 'Leighton Green'	Northern, eastern and southern boundaries of the rear garden of 21 Hipwood Street	Various

Removal of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

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)

5. *Conditions G5, G7 and II are replaced as follows:*

G. Prior to Issue of Occupation Certificate

Certification of Tree Condition

G5. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Height
7 x <i>Howea forsteriana</i>	The eastern boundary of 21 Hipwood Street	Various
2 x <i>Sapium sebiferum</i>	Council verge outside 21 Hipwood Street	10 x 6m
1 x <i>Sapium sebiferum</i>	Council verge outside 19 Hipwood Street	10 x 6m
All new boundary trees approved by this consent	Rear garden of 21 Hipwood Street	Various

The report must detail the condition and health of the nominated tree(s) upon completion of the works and shall certify that the tree(s) has/have not been significantly damaged during the works on the site and has/have reasonable prospects for survival.

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

Landscaping (To be completed on receipt of acceptable drawings)

G7. The landscaping shown in the approved Drawing DA.03.00 Landscape Proposed dated June 2020 prepared by Housed by Nanna Lesiuk and received by Council on 05/06/2020, unless otherwise modified by Conditions C7, C14 and G5 in this consent, must be completed prior to the issue of any Occupation Certificate.

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

I. On-Going / Operational Conditions

Maintenance of Approved Landscaping

- II. The owner of the premises at 21 Hipwood Street is to maintain, unless otherwise modified by Conditions C7, C14, C15, C16 and G5 in this consent, the landscaping approved by this consent generally in accordance with Drawing MOD.03.00 Landscape Proposed dated June 2020 prepared by Housed by Nanna Lesiuk and received by council on 5 June 2020.

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.

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

The development application has been assessed against the relevant planning instruments and policies, in particular the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013, and generally found to be satisfactory.

There would be no unreasonable additional overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposal, given that the majority of the works are located internally and at the rear and side of the dwelling and will be sympathetic to the subject dwelling and adjoining dwellings. It has also been demonstrated that the site benefits from existing use rights as a residential flat building pursuant to sections 4.65-4.70 of the EPAA 1979, and the proposed modifications are all contained within the existing ridge height of the building.

Reason for approval:

The proposed works will provide additional resident amenity without negatively impacting the built form character of the of existing dwelling or the locality and will not be highly visible from the public domain. The proposed changes to the landscaping in the rear garden and northern side boundary have been conditioned to ensure that amenity for residents and neighbours are retained while also ensuring the retention of the landscaped context of the subject site and the locality.

The application is considered to be acceptable in the circumstances and it is recommended for approval subject to standard and site specific conditions.

How community views were taken into account:

The subject application was notified to adjoining properties and the Milson Precinct Committee inviting comment between 19 June 2020 and 3 July 2020. Five (5) submissions were received by Council, regarding the choice of boundary planting species and other issues. Nevertheless, as demonstrated above and subject to conditions, it is considered that the proposal would provide significantly improved amenity for the residents without causing any unreasonable impacts to the streetscape and/or the amenity of adjoining properties.

The conditions attached to the original consent for Development Application No. 332/19 by endorsed date of 12 December 2019 still apply.

ADVISINGS

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