

Original signed by: Luke Donovan Dated: 8/12/2020

Shanlin L Property Pty Ltd
C/- City Planning Works
PO Box 636
BONDI JUNCTION NSW 1355

D29/18
LD(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 29/18/2 – APPROVAL**

Development Consent Number: 29/18/2

Land to which this applies: 4-6 McKye Street, Waverton
Lot No.: A, DP: 347515

Applicant: Shanlin L Property Pty Ltd
C/- City Planning Works

Proposal: A Section 4.55(2) application to modify consent to DA 29/18 with regards to various changes to an approved residential flat building.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 2 December 2020.

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. **29/18** and registered in Council's records as Application No. **29/18/2** relating to the land described as **4-6 McKye Street, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 4 July 2018, has been determined in the following manner: -

- 1. To modify conditions A1, A3, C4, C27, C28, C39, C40, C42, C46, C49, G16, G22 and I4 of the consent as follows:***

Development in accordance with Plans

- 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.	Revision No	Description of works	Prepared by	Dated
Architectural				
DA-005	G	Site Analysis	Become	27/10/20
DA-010	E	Existing/Demolition Site Plan	Become	23/10/20
DA-015	H	Proposed Site Plan	Become	27/10/20
DA-099	G	Proposed Basement Level 02	Become	23/10/20
DA-100	M	Proposed Basement Level 01	Become	23/10/20
DA-101	P	Proposed Ground Level Plan	Become	12/11/20
DA-102	N	Proposed Level 01 Plan	Become	27/10/20
DA-103	K	Proposed Level 02 Plan	Become	23/10/20
DA-104	Q	Proposed Level 03 Plan	Become	12/11/20
DA-105	L	Proposed Roof Plan	Become	27/10/20
DA-400	H	Proposed Building Elevations	Become	12/11/20
DA-401	H	Proposed Building Elevations	Become	12/11/20
DA-402	H	Proposed Building Elevations	Become	12/11/20
DA-403	H	Proposed Building Elevations	Become	12/11/20
DA-420	E	Proposed Building Sections	Become	27/10/20
DA-421	E	Proposed Building Sections	Become	27/10/20
DA-749	A	Adaptable Unit Plan	Become	23/10/20
DA-750	C	Adaptable Unit Plan	Become	23/10/20
DA-920	D	External Finishes Schedule	Become	23/10/20
Landscaping				
LA-01	N	Landscape Plan - Ground Level	Ground Ink	11/11/20
LA-02	F	Existing Tree Plan	Ground Ink	27/10/20
LA-03	H	Proposed Tree Plan	Ground Ink	27/10/20
LA-04	H	Proposed Planting Plan	Ground Ink	27/10/20
LA-05	G	Landscape Plan Level 03	Ground Ink	11/11/20
LA-07	A	Landscape Section	Ground Ink	11/11/20
LA-08	C	Landscape Details	Ground Ink	28/07/20

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

External Finishes & Materials

- A3. External finishes and materials must be in accordance with **Condition A1 the submitted schedule dated 30 January 2018, prepared by Design Studio Group and received by Council on 13 February 2018 unless otherwise modified by Council in writing.**

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

Dilapidation Survey Private Property (Neighbouring Buildings)

- C4. A photographic survey and dilapidation report of adjoining properties No's. 23 King Street, Nos. 25-27 King Street, No. 10 McKye Street and No. 2 McKye Street detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. **The survey and report must be prepared following the date of the modified consent.**

A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Garbage and Recycling Facilities

C27. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

- a) all internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b) provision for the separation and storage in appropriate categories of material suitable for recycling;
- c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;
- d) if a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay must be provided no more than 2m from the street boundary of the property; **This temporary bin holding bay, on the eastern side of the driveway, must be appropriately screened from both the public domain and the residential property at 10 McKye Street by landscaping.**
- ~~e) garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and~~

~~f) — garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.~~

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

Location of Plant

C28. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof ~~with the exception of the PV solar panels~~. 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Adaptable Housing

C39. Proposed apartments ~~Unit D and Unit E is~~ ~~is~~ ~~are~~ are to be designed with accessible features for disabled persons, and must incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps. These features are to be designed generally in accordance with the relevant Australian Standard 4299 - 1995. 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 equity of access and availability of accommodation in the future for an ageing population)

Section 7.11 Contributions

C40. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 7.11 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

A	B (\$)
Administration	\$1,226.04
Community Centres	\$5,565.94
Child Care Facilities	\$2,123.63
Library and Local Studies Acquisitions	\$1,038.51
Library Premises & Equipment	\$3,211.76
Multi Purpose Indoor Sports Facility	\$877.07
Olympic Pool	\$2,856.64
Open Space Acquisitions	\$35,006.44
Open Space Increased Capacity	\$69,389.01
North Sydney Public Domain	-
St Leonards Public Domain Improvements	-
Public Domain Improvements	\$2,742.87
Traffic Improvements	\$3,366.90
Total	\$127,404.81

The contribution MUST BE paid prior issue of any Construction Certificate. The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution. A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

BASIX Certificate

C42. 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. ~~820033M_03 1121875M dated 6 August 2020~~ 1121875M_02 dated 27 November 2020 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)

Screen Planting

C46. To maintain acceptable levels of privacy, screen planting must be installed and maintained adjacent to the eastern, northern and north-western boundaries of the site ~~in locations shown clouded red on the stamped approved plans~~. The required screen planting must consist of suitable screening species capable of attaining a mature height of 2.5 - 3.0 metres above finished ground levels. The proposed screen planting along the northern boundary must be planted in 50cm pot sizes to allow for a height of at least 1.5m at the time of planting. 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.

(Reason: To ensure an adequate level of privacy is provided to adjoining properties)

Allocation of Car Parking Spaces

C49. Car Parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated as follows:

~~10~~ 9 car parking spaces, including ~~one~~ two accessible car spaces to be allocated to the residents;

2 visitor car parking spaces, one of which is to be an accessible visitor car space, ~~are to be visitor spaces, with one having allowance for an electric charging bay~~ and one doubling up as a visitor/car wash bay. ~~All car spaces are to have a power point and provision for charging.~~

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 adequate parking facilities and services are provided for the development on site)

Landscaping

G16. The landscaping shown in the approved landscape plans ~~numbered LA-01 Rev E dated 27 April 2018, LA-02 Rev A dated 27 April 2017, LA-03 Rev A dated 27 April 2017, LA-04 Rev A dated 27 April 2017, LA-05 Rev B dated 27 April 2018, LA-06 Rev A dated 11 September 2017 prepared by Ground Ink and received by Council on 1 May 2018~~ forming part of Condition A1 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Compliance with Certain conditions

G22. Prior to the issue of any Occupation Certificate ~~C45 Privacy~~, C46 Screen Planting, 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)

~~Green Walls and~~ Planter boxes

14. The ~~green walls and landscaping within the level 03 planter boxes~~ is to be ~~retained~~, maintained by the individual owners and/or Owners Corporation ~~and operated~~ on an on-going basis for the life of the development, ~~as per the Maintenance Plan described in Condition C50.~~

(Reason: To ensure the on-going maintenance of the ~~green walls-landscaping with the~~ planter boxes)

2. *Delete Condition A8 'Design Amendments', Condition C45 'Privacy', Condition C48' Safety of Metal Screening', Condition C50 'Green Walls and Planter boxes' and Condition C51 'Colour and Materials'.*

3. *Add Condition I5 as follows:*

Maintenance of landscaping

15. For the life of the development, the maintenance and operation of the landscaping that requires automatic irrigation is to be periodically monitored by the owner's corporation.

(Reason: To ensure overwatering and drainage problems do not occur for surrounding properties)

The Panel is satisfied the development is substantially the same as approved and is satisfied the modification warrants approval.

Reason for approval:

The Panel notes the modification application is in respect of a previous approval, however, the envelope is generally maintained and the amended plans represent an improved built form and amenity outcome.

How community views were taken into account:

The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2020/2_December_2020)

The conditions attached to the original consent for Development Application No. 29/18 by endorsed date of 4 July 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Luke Donovan**. 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
DAVID HOY
TEAM LEADER (ASSESSMENTS)