

Roger C Corbin Pty Ltd
PO Box 174
GORDON NSW 2072

D183/18
LH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 183/18/3 – APPROVAL**

Development Consent Number: 183/18/3

Land to which this applies: 7-11 Mount Street, North Sydney
Lot No.: 1, DP: 225258

Applicant: Roger C Corbin Pty Ltd

Proposal: To modify a development consent DA183/18 for various modifications to an approved development scheme for demolition of Anderledy Lodge, the Hermitage and the existing basement and construction of a four level building to be used for short term hotel accommodation and ancillary rooms, basement car parking and landscape works.

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. **183/18** and registered in Council's records as Application No. **183/18/3** relating to the land described as **7-11 Mount Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 May 2019, has been determined in the following manner: -

- To delete condition A1 of the consent and insert in lieu thereof the following new condition, namely:*

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:

Plan No.	Rev	Title	Dated	Prepared by	Received
DA0502	J	Site Plan	14/11/2018	Gardner Wetherill Associates	21/11/2018
DA0510	A	Demolition plan – ground	14/11/2018	Gardner Wetherill Associates	21/11/2018
DA0511	A	Demolition plan – basement	14/11/2018	Gardner Wetherill Associates	21/11/2018

DA0512	A	Excavation plan	14/11/2018	Gardner Wetherill Associates	21/11/2018
DA1101	M	Basement level plan	8/2/2019	Gardner Wetherill Associates	14/2/2019
DA1201	K	Ground level	7/3/2019	Gardner Wetherill Associates	18/3/2019
DA1301	H	Level 1	14/11/2018	Gardner Wetherill Associates	21/11/2018
DA1302	H	Level 2	14/11/2018	Gardner Wetherill Associates	21/11/2018
DA1303	H	Level 3	14/11/2018	Gardner Wetherill Associates	21/11/2018
DA1401	I	Roof plan	8/2/2019	Gardner Wetherill Associates	14/2/2019
DA1501	J	Elevations	6/3/2018	Gardner Wetherill Associates	18/3/2019
DA1502	H	Elevations	6/3/2018	Gardner Wetherill Associates	18/3/2019
DA1503	A	Street elevations	8/2/2019	Gardner Wetherill Associates	14/2/2019
DA1601	J	Sections	6/3/2018	Gardner Wetherill Associates	18/3/2019

Except where amended by the following plans:

Plan No.	Rev	Title	Dated	Prepared by	Received
DA0502	K	Site Plan	18/11/2020	Gardner Wetherill Associates	16/12/2021
DA1101	N	Basement level plan	18/11/2020	Gardner Wetherill Associates	16/12/2021
DA1201	L	Ground level	18/11/2020	Gardner Wetherill Associates	16/12/2021
DA1301	I	Level 1	18/11/2020	Gardner Wetherill Associates	16/12/2021
DA1401	J	Roof plan	18/11/2020	Gardner Wetherill Associates	16/12/2021
DA1501	M	Elevations	19/2/2021	Gardner Wetherill Associates	19/2/2021
DA1502	K	Elevations	19/2/2021	Gardner Wetherill Associates	19/2/2021
DA1503	B	Street elevations	18/11/2020	Gardner Wetherill Associates	16/12/2021
DA1601	K	Sections	18/11/2020	Gardner Wetherill Associates	16/12/2021

Except where amended by the following conditions of this consent.

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

2. To modify Condition A4 as follows:

External finishes and materials

A4. External finishes and materials must be in accordance with the submitted plans DA1501 Revision M dated 19/2/2021; DA1502 Revision K dated 19/2/2021 and DA1503 Revision B dated 18/11/2020, prepared by Gardner Wetherill Associates, unless otherwise modified by Council in writing.

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

3. To modify Condition C21 as follows:

Tree Protection Measures to be shown on Construction Drawings

C21. The tree protection measures contained in the arborist report prepared by Raintree Consulting, dated 11 October 2017 and received by Council on 19 June 2018 shall be shown clearly on the Construction Certificate drawings. These tree protection measures shall be amended to include:

- The protection of trees detailed in the Amended Landscape Plan 01, 02 and 03, all issue E prepared by Matthew Higginson, dated 8/3/2019 and received at Council on 18/03/2019 and;

- Amended Landscape Plans SK01 Revision 02 and SK 02 Revision 02, prepared by Mathew Higginson Landscape Architecture Pty Ltd, dated 15/12/2020 and received at Council on 16/12/2020.
- All relevant conditions of consent.

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)

4. To modify Condition C22 as follows:

Approval for Removal of Trees

C22. The following tree(s) are approved for removal in accordance with the development consent:

Tree	Location	Height	Reason
T1 Cinnamomum camphora	Near William Street entry	9m	Design layout > 10m
T2 Cinnamomum camphora	Near William Street entry	16m	Design layout
T3 Ulmus glabra	Next to William Street on roof garden	4m	Demolition roof garden, <10m
T4 Xylosma Senticosum	On roof garden above garage entry	5m	Demolition roof garden <10m
T5 Brachychiton Acerifolius	On roof garden above garage entry	6m	Demolition roof garden, <10m
T6 Cinnamomum camphora	Adjacent to garage entry	16m	Design layout
T10 Ulmus Parvafolia	West of roof garden	11m	Demolition of roof garden, <10m
T11 Tristaniopsis laurina	West of roof garden	4m	Design layout and <10m
T12 Tristaniopsis laurina	West of roof garden	4m	Design layout
T13 Brachychiton acerifolius	Next to William Street on roof garden	7m	Demolition of roof garden, <10m
T14 jacaranda mimosifolia	Next to William Street on roof garden	9m	Demolition of roof garden, <10m
T15 Xylosma senticosum	Next to William Street on roof garden	6m	Demolition of roof garden, <10m
T16 Fraxinus sp.	Next to William Street on roof garden	11m	Demolition of roof garden, <10m
T17 Cinnamomum camphora	Near southern boundary	20m	Design layout >12m
T18 Ulmus Parvifolia	North of Kenny Cottage	14m	Design layout
T19 Sapium sebeferum	North of Kenny Cottage	13m	Design layout
T20 waterhousea floribunda (species TBA)	Next to Shore School building	15m	May become problematic
T21 waterhousea floribunda (Species TBA)	Next to Shore School building	6m	May become problematic, <10m
T22 Celtis occidentalis	Next to Shore School building	15m	May become problematic
T23 Ulmus parvifolia	North-west of Kenny Cottage	9m	Design layout, <10m
T24 Grevillea sp	South-east of Anderledy Lodge	4m	Design layout, <10m
T25 Acer palmatum	East of Anderledy Lodge	4m	Design layout
T26 Magnolia soulangeana	Anderledy Lodge courtyard	7m	Design layout
T27 Magnolia soulangeana	Anderledy Lodge courtyard	7m	Design layout

T28 <i>Acer palmatum</i>	Anderledy Lodge courtyard	4m	Design layout
T29 <i>Ulmas parvifolia</i>	Roundabout	6m	Design layout
T30 <i>Ulmus parvifolia</i>	North-east of Anderledy Lodge	12m	Design layout
T31 <i>Ulmus parvifolia</i>	North-east of Anderledy Lodge	10m	Design layout
T32 <i>Ulmas parvifolia</i>	South-west of Temuka Building	10m	Design layout
T33 <i>Callistemon viminalis</i>	East of Alma Cottage	7m	Design layout <10m
T40 <i>Tristaniopsis Laurina</i>	North-east of Barr Cottage	4m	Design layout <10m
T7 <i>Washingtonia filifera</i>	Next to Shore School building	Unknown	Tree is dead or failing
T8 <i>Washingtonia filifera</i>	Next to Shore School building	Unknown	Tree is dead or failing
T9 <i>Washingtonia filifera</i>	Next to Shore School building	Unknown	Tree is dead or failing
T35 <i>Pistachia chinensis</i>	South-west of Temuka Building	Unknown	Tree is dead or failing

Removal or pruning 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. To add new Condition C33 as follows:

Tree Protection and Management Plan for Trees T34, T38 and T42

C33. Prior to the issue of a Construction Certificate for the works outlined in this consent, the applicant shall prepare a detailed *Tree Protection and Management Plan* prepared by an AQ5 Arborist outlining the protection measures for Trees T34, T38 and T42 that are to be retained on the site. The *Tree Protection and Management Plan* shall be submitted for the written approval of Council's Landscape Development Officer. The recommendations of this Tree Protection and Management Plan shall be adhered to at all times.

Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of a 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 the protection and long-term vitality of trees T34, T38, T42)

6. To modify Condition E16 as follows:

Protection of Trees

E16. 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 for the duration of the works and shall include:

- 1) All recommendations contained within the tree report prepared by Raintree Consulting, dated 11 October 2017 and received by Council on 19 June 2018, and;

- 2) As amended by Landscape Plans 01, 02 and 03, all issue E prepared by Matthew Higginson, dated 8/3/2019 and received at Council on 18/3/2019, and;
- 3) As amended by Landscape Plans SK01 Revision 02 and SK 02 Revision 02, prepared by Mathew Higginson Landscape Architecture Pty Ltd, dated 15/12/2020 and received at Council on 16/12/2020, and
- 4) As amended by relevant conditions of consent,

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. Note:

- 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 4.55 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 the existing environmental infrastructure and community assets)

7. To modify Condition G15 as follows:

Landscaping

G15. Prior to the issue of any Occupation Certificate, all landscaping shown on approved plans must be completed in accordance with the following requirements:

- Approved plans being Landscape Plan Nos. 01, 02 and 03, all issue E prepared by Matthew Higginson Landscape Architecture Pty Ltd, dated 8/3/2019 and received at Council on 18/3/2019, and
- As amended by Landscape Plan SK01 Revision 02 and SK 02 Revision 02, prepared by Mathew Higginson Landscape Architecture Pty Ltd, dated 15/12/2020 and received at Council on 16/12/2020, and
- As amended by all relevant conditions of consent.

The landscape plans shall be amended to be consistent with all relevant conditions of consent.

(Reason: To ensure compliance with landscaping provisions)

8. To add new Condition G18 as follows:

Required Tree Planting

G18. On completion of works and prior to the issue of an Occupation Certificate, trees in accordance with the schedule hereunder must be planted on the site:

Schedule

Tree Species	Location	Pot Size
3 replacement canopy trees capable of reaching a mature height of minimum 7m	Within the subject site	45 Litre
1 x Pistachia chinensis (shall be sourced as close as possible to the size and form of T34 with efforts being made to be of identical dimensions)	South-west of the Temuka Building in the location to replace Tree No.35.	200 Litre
5 x Livistonia australis	Adjacent to Shore School in the location to replace existing trees T7, T8 and T9.	Minimum trunk height (excluding crown) of 5m at the time of planting.

The planting and maintenance of these trees shall be supervised by the project arborist, who shall provide a report to Council at 8 week intervals, from the time of planting until 6 months after completion of works.

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 trees. The report must detail the condition and health of the nominated trees upon completion of the works, and shall certify that the trees have not been significantly damaged during the works on the site, and have reasonable prospects for survival.

(Reason: To ensure that replacement plantings are provided to enhance community landscaped amenity and cultural assets)

Reason for approval:

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granting 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:

Adjoining properties and the Union / CBD Precinct were notified of the proposed development between 15/1/2021 – 29/1/2021. One submission was received and issues raised have been responded to within the assessment report.

The conditions attached to the original consent for Development Application No. 183/18 by endorsed date of 3 May 2019 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
Lara Huckstepp
EXECUTIVE PLANNER