

Madera House Pty Ltd
PO Box 222
CAMMERAY NSW 2062

D164/18
LH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 164/18/2 – APPROVAL**

Development Consent Number: 164/18/2

Land to which this applies: 6 Thrupp Street, Neutral Bay
Lot No.: 1, DP: 543026

Applicant: Madera House Pty Ltd

Proposal: To modify a Development Consent DA164/18 for various modifications to an approved 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. **164/18** and registered in Council's records as Application No. **164/18/2** relating to the land described as **6 Thrupp Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 15 March 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 as follows:

Plan Nos.	Rev	Description of works	Dated	Prepared by	Received
DA 101	D	Ground floor plan	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 102	D	First floor Plan	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 103	D	Roof plan	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 201	D	Elevations	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 301	D	Sections	15/8/2018	Cracknell & Lonergan Architects	16/11/2018
DA 302	D	Concept detail section	15/8/2018	Cracknell & Lonergan Architects	16/11/2018

Except as modified in highlighting on the following plans:

Plan Nos.	Rev	Description of works	Dated	Prepared by	Received
S4.55 101	A	Ground floor plan	31/7/2020	Cracknell & Lonergan Architects	18 December 2020
S4.55 102	A	First floor Plan	31/7/2020	Cracknell & Lonergan Architects	18 December 2020
S4.55 103	A	Roof plan	31/7/2020	Cracknell & Lonergan Architects	18 December 2020
S4.55 201	A	Elevations	31/7/2020	Cracknell & Lonergan Architects	18 December 2020
S4.55 301	A	Sections	31/7/2020	Cracknell & Lonergan Architects	18 December 2020
S4.55 302	A	Concept detail section	31/7/2020	Cracknell & Lonergan Architects	18 December 2020

Except where amended by the following conditions of consent.

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

2. Condition C22 is modified as follows:

Section 7.11 Contributions

C22. 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 94 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	\$174.22
Child Care Facilities	\$301.76
Community Centres	\$790.89
Library and Local Studies Acquisition	\$147.57
Library Premises & Equipment	\$456.37
Multi-Purpose Indoor Sports Facility	\$124.63
Open Space Acquisition	\$4,974.23
Open Space Increased Capacity	\$9,859.81
Olympic Pool	\$405.91
Public Domain Improvements	-
Traffic Improvements	\$478.42

The total contribution is \$18,103.55

The contribution MUST BE paid prior to 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)

3. Amend Condition C23 as follows:

Security Deposit / Guarantee Schedule

C23. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit / guarantee	Amount (\$)
Street tree Bond (on Council Property)	\$3,000.00
Infrastructure Damage Bond	\$3,500.00
Engineering Construction Bond	\$4,000.00
TOTAL BONDS	\$10,500.00

Note: The following fees applicable:

Fees	
Section 7.11 Contributions	\$18,103.55
TOTAL FEES	\$18,103.55

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

4. Amend Condition C24 as follows:

BASIX Certificate

C24. 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 931770M 02 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)

5. To add new condition C32 as follows:

Privacy screening

C32. The privacy screening detailed on Plan s4.55 102 Issue A shall be detailed on all elevations shown on Plan s4.55 201 Issue A.

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 consistency of plans and elevations)

5. Amend Condition G11 as follows:

Height

G11. Upon completion of the works and prior to the issue of any Occupation Certificate the RL of the development shall be surveyed and certified by an appropriate qualified and practising surveyor as compliant with all levels detailed on approved plan s4.55 201 (Elevations), Issue A dated 31/7/2020, prepared by Cracknell & Lonergan Architects Pty Ltd and received by Council on 18/12/2020.

This survey and certification must be submitted to the Certifying Authority with the application for an Occupation Certificate and a copy provided to Council (if it is not the Certifying Authority).

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

6. Amend Condition G15 as follows:

Damage to Adjoining Properties

G15. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

The report must document whether access has been granted to adjoining properties. In circumstances where access has been denied all reasonable attempts must be made to obtain access to adjoining properties for the purposes of compliance with this condition. These reasonable attempts must be documented in the report and be to the satisfaction of Council prior to the issue of the occupation certificate for the whole of the building.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

7. Amend Condition I2 as follows:

Allocation of Spaces

- I2. The allocation of car parking spaces within the development must be maintained at all times in accordance with the terms of this consent. No more than 1 car space shall be allocated to any apartment.

(Reason: To comply with the terms of this development consent.

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.

The proposed modifications will generally retain generally the same bulk and scale as originally approved. The internal reconfiguration and change in dwelling numbers is assessed as being acceptable. There would be no material impacts on the amenity of the adjoining properties, and existing conditions regarding privacy imposed by the NSLPP Panel remain in place. The proposed 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 are 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 Hayes Precinct were notified of the proposed development between 15/1/2021 – 29/1/2021. Six submissions were received and issues raised have been considered within the assessment report.

The conditions attached to the original consent for Development Application No. 164/18 by endorsed date of 15 March 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**