

Saw Eng Tan  
C/- Atelier M  
32/82 Myrtle Street  
CHIPPENDALE NSW 2008

D219/20  
HS1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 219/20/3 - APPROVAL**

**Development Consent Number:** 219/20

**Land to which this applies:** 31 King Street, Waverton  
Lot No.: 1, DP: 105627

**Applicant:** Saw Eng Tan

**Proposal:** Section 4.55(2) modifications to DA219/20 to amend Conditions C2, C3, C24, I2 and minor changes to the approved plans

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. **219/20** and registered in Council's records as Application No. **219/20/3** relating to the land described as 31 King Street, Waverton.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 December 2020, has been determined in the following manner:

**1. Condition A1 is to be amended to read:**

**Development in Accordance with Plans**

Plan No.	Issue	Title	Drawn by	Received
DA202	D	Site Plan	Atelier M	24.11.2020
DA203	E	Existing Floor Plan	Atelier M	24.11.2020
DA205	D	Existing Elevations	Atelier M	24.11.2020
DA206	B	Demolition Plan	Atelier M	24.11.2020
DA207	J	Proposed Ground Floor Plan	Atelier M	24.11.2020
DA208	I	Proposed Mezzanine Floor Plan	Atelier M	24.11.2020
DA209	I	Proposed Roof Plan	Atelier M	24.11.2020
DA210	F	Proposed Elevation - North	Atelier M	24.11.2020
DA211	E	Proposed Elevation - South	Atelier M	24.11.2020
DA212	E	Proposed Elevation - East	Atelier M	24.11.2020
DA213	E	Proposed Elevation - West	Atelier M	24.11.2020
DA214	E	Sections	Atelier M	24.11.2020
DA220	C	Proposed Street View and Materials	Atelier M	24.11.2020

As amended by the following plans and additional conditions:

<b>Plan No.</b>	<b>Issue</b>	<b>Dated</b>	<b>Title</b>	<b>Drawn by</b>	<b>Received</b>
S4.55/2_200	C	11.6.2021	Cover Page	Atelier M	23.6.2021
S4.55/2_201	C	11.6.2021	Ground Floor Plan	Atelier M	23.6.2021
S4.55/2_203	B	11.6.2021	Proposed Elevation - East	Atelier M	23.6.2021
S4.55/2_204	B	11.6.2021	Details	Atelier M	23.6.2021

- 2. *To modify the development consent (D219/20) by partially modifying condition C2, C3 and I2 as follows:***

**Condition C2**

**Heritage Design Amendments**

C2 The following heritage design amendments are outlined below:

- ~~• The proposed front entry steps are to be restored with the same materials and ‘made good’.~~
- ~~• A schedule of conservation works to be carried out for the maintenance, repair and restoration of the dwelling is required prior to CC.~~
- The proposed front entry steps are to be restored and reconstructed where necessary on a like-for-like basis re-using the existing materials. A best-fit match to replace the damaged tiles is to be found. If the tiles are to be assessed as requiring full replacement, they will be matched with a best fit option to match the existing. The justification of the findings for the existing tiles and the details of the works to be carried out shall be to the satisfaction of Council’s Heritage Planning Specialist.
- A schedule of conservation works to be carried out for the various conservation processes involving maintenance, repair reconstruction and restoration of the dwelling is required prior to CC.

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.

**Condition C3**

**Existing condition to be modified:**

**Paving in the Front Garden**

- C3. The paving in the front garden is to be reduced by 10 m<sup>2</sup> and replace with ~~low level landscaping~~ **grass**.

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.

## Condition C24

### Modified Condition to Read:

C24 The following trees 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:

1 x *Callistemon viminalis* Council Verge in front of 31 King Street - 6 m x 5 m

1 x *Plumeria acutifolia* Front setback of 31 King Street - 6 m x 7 m

1 x *Plumeria acutifolia* Eastern boundary of the rear setback of 33 King Street - 8 m x 8 m

All existing ~~site and~~ neighbouring screening planting **and** trees along the rear boundary of 31 King Street.

## Condition I2

### Maintenance of Approved Landscaping

I2 ~~The owner of the premises at 31 King Street is to maintain the landscaping approved by this consent generally in accordance with the landscape plan prepared by Pangkarra dated 7/8/20 as modified by condition C25.~~

**In the event the approved landscaping being unsuccessful**, any replacement plants required shall be advanced in growth and be selected to ~~maintain the~~ **be similar with 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)

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#### Reason for Approval:

The proposed change has resulted from a minor oversight made in the imposition of a condition in this instance. The amendment of Condition A1 and C1 is supported in this regard.

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#### How community views were taken into account:

The application was notified in accordance with the North Sydney Community Participation Plan 2019 and nil (0) submissions were received during the notification period.

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The conditions attached to the original consent for Development Application No. 219/20/3 by endorsed date of 2 December 2020 still apply.

## ADVISINGS

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

**Endorsed for and on behalf of North Sydney Council**

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DATE

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER - ASSESSMENTS**

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