

Original signed by Robyn Pearson on 16/02/2022

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D331/20
AB7 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 331/20/2 - APPROVAL

Development Consent Number: 331/20/2

Land to which this applies: 60 Spruson Street, Neutral Bay
Lot No.: 5, DP: 9222

Applicant: Demis Roussos Bharghava, HecticrAt Architects

Proposal: Various internal and external modifications to DA 331/20

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. **331/20/2** and registered in Council's records as Application No. **331/20** relating to the land described as **60 Spruson Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **13 November 2020**, has been determined in the following manner:

1. Condition A1 is amended as follows:

Development in Accordance with Plans (S4.55 Amendments)

A1. The development must be carried out in accordance with the following drawings and documents endorsed with Council's approval stamp:

Drawing No.	Title	Drawn by	Dated	Received
01	Site Plan	HecticrAt Architects	03/12/2020	18/12/2020
02	Roof Plan	HecticrAt Architects	03/12/2020	18/12/2020
06	Plans 1	HecticrAt Architects	03/12/2020	18/12/2020
07	Plans 2	HecticrAt Architects	03/12/2020	18/12/2020
08	Garden Plan	HecticrAt Architects	03/12/2020	18/12/2020
09	Ground Floor Plan	HecticrAt Architects	03/12/2020	18/12/2020
12	First Floor Plan	HecticrAt Architects	03/12/2020	18/12/2020
13	Elevations 1	HecticrAt Architects	03/12/2020	18/12/2020
14	Elevations 2	HecticrAt Architects	03/12/2020	18/12/2020

15	Elevations 3	HecticrAt Architects	03/12/2020	18/12/2020
16	Elevations 4	HecticrAt Architects	03/12/2020	18/12/2020
17	Section A-A (Part 1)	HecticrAt Architects	03/12/2020	18/12/2020
18	Section A-A (Part 2)	HecticrAt Architects	03/12/2020	18/12/2020
19	Section B-B (Part 1)	HecticrAt Architects	03/12/2020	18/12/2020
20	Section B-B (Part 2)	HecticrAt Architects	03/12/2020	18/12/2020
21	Section C-C	HecticrAt Architects	03/12/2020	18/12/2020
22	Colours and Materials	HecticrAt Architects	03/12/2020	18/12/2020
23	Driveway	HecticrAt Architects	03/12/2020	18/12/2020
A01	Proposed Landscape Plan	A Total Concept Landscape Architects	21/09/2020	18/12/2020
A02	Proposed Planting Plan	A Total Concept Landscape Architects	21/09/2020	18/12/2020

Except as modified as such on the following drawings for DA 331/20/2:

Drawing No.	Issue	Title	Drawn by	Dated	Received
01	D	Site Plan	HecticrAt Architects	17/12/2021	17/12/2021
03	D	Colours and Materials	HecticrAt Architects	17/12/2021	17/12/2021
04	D	Roof Plan	HecticrAt Architects	17/12/2021	17/12/2021
05	D	Lower Ground	HecticrAt Architects	17/12/2021	17/12/2021
06	D	Ground	HecticrAt Architects	17/12/2021	17/12/2021
07	D	First	HecticrAt Architects	17/12/2021	17/12/2021
08	D	Elevations_1	HecticrAt Architects	17/12/2021	17/12/2021
09	D	Elevations_2	HecticrAt Architects	17/12/2021	17/12/2021
10	D	Sections A-A and B-B	HecticrAt Architects	17/12/2021	17/12/2021
11	D	Section C-C	HecticrAt Architects	17/12/2021	17/12/2021

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

2. Condition C22 is amended as follows:

Amendments to the Landscape Plan

C22. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- 1) Removal of *Howea forsteriana* (5-7 m) tree in rear (western) garden is permitted subject to the replacement planting, being 1 x *Cupaniopsis anacardiodes* (100-Litre pot size) within the rear setback (Holdsworth Street frontage).
- 2) The additional and modified landscaped areas as approved under DA331/20/2 shall be shown on the landscape plan, with the planting species, numbers and pot sizes identified on the plans.

An amended landscape plan, plus species names, pot sizes and numbers of all other proposed plantings, 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)

3. Condition G7 is amended as follows:

Landscaping

- G7. The landscaping shown in the approved landscape plans numbered A01 and A02 prepared by A Total Concept Landscape Architects dated 21 September 2020, received by Council on 18 December 2020, and as modified by the conditions of this consent and DA331/20/2, must be completed prior to the issue of any Occupation Certificate.

(Reason: To provide clarity as to the works approved under both development applications)

Reasons for Approval:

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposed development remains substantially the same as what was approved by DA 331/20. The proposed modifications will not alter the use of the development as originally approved and amenity impacts remain acceptable. The proposed modifications would not significantly change the level of compliance with the relevant development standards and controls as contained in NSLEP 2013 and NSDCP 2013.

The slight extension of the garage footprint, and the new front fence to comply with the original condition of DA 331/20, will retaining a high level of visibility of the front landscaping from the street while also ensuring sufficient landscaping is retained on the site. Additional garden areas at the rear of the site will also further enhance that landscaped context within the streetscape. The addition of privacy measures to satisfy the original conditions of DA 331/20 will enhance privacy to and from the subject site. The proposed works will provide resident amenity without negatively impacting the neighbourhood character, and the Neutral Neighbourhood. The proposal also remains consistent with the objectives of the R2 Low Density Residential Zone and the original reasons for granting consent.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be **approved**.

How community views were taken into account:

The subject application was notified to adjoining properties and the Neutral Precinct Committee seeking comment, and no submissions were received. Nevertheless, it is considered that the proposed modifications would not substantially alter the impacts of what has already been approved under the original consent and would not cause any unreasonable impacts to the streetscape and/or adjoining properties.

The conditions attached to the original consent for Development Application No. **331/20/2** by endorsed date of **13 November 2020**, 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 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

16 February 2022

DATE



Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)