

Cranbrook RACF Pty Ltd
Suite 3, Level 1, 8 West Street
NORTH SYDNEY NSW 2060

D306/19
MS3 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 306/19/3 – APPROVAL

Development Consent Number: 306/19/3

Land to which this applies: 54-58A Wycombe Road, Neutral Bay
Lot No.: 6, DP: 86300

Applicant: Cranbrook RACF Pty Ltd

Proposal: Section 4.55(2) application (D306/2019) seeking various design modifications to an approved residential aged care facility development.

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. **306/19** and registered in Council's records as Application No. **306/19/3** relating to the land described as **54-58A Wycombe Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 9 September 2020, has been determined in the following manner:

1. Insert Condition A6

Development in Accordance with Plans (s4.55 Amendments)

A6. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on:

Plan No.	Issue	Title	Dated	Received	Received
1813/DA01	N	Site Plan	14/10/2021	Boffa Robertson Group	26/10/2021
1813/DA03	E	Demolition Ground Floor Plan	18/01/2022	Boffa Robertson Group	31/01/2021
1813/DA04	E	Demolition First Floor Plan	18/01/2022	Boffa Robertson Group	31/01/2021

1813/DA06	N	Proposed Basement Floor Plan	14/10/2021	Boffa Robertson Group	26/10/2021
1813/DA07	O	Proposed Lower Ground Floor Plan	14/10/2021	Boffa Robertson Group	26/10/2021
1813/DA08	R	Proposed Ground Floor Plan	14/10/2021	Boffa Robertson Group	26/10/2021
1813/DA09	Q	Proposed First Floor Plan	14/10/2021	Boffa Robertson Group	26/10/2021
1813/DA10	Q	Proposed Second Floor Plan	10/03/2022	Boffa Robertson Group	14/03/2022
1813/DA11	H	Proposed Roof Plan	10/03/2022	Boffa Robertson Group	15/03/2022
1813/DA12	O	Elevations – Sheet 1	10/03/2022	Boffa Robertson Group	14/03/2022
1813/DA13	P	Elevations – Sheet 2	10/03/2022	Boffa Robertson Group	17/03/2022
1813/DA14	N	Elevations – Sheet 3	14/10/2021	Boffa Robertson Group	26/10/2021
1813/DA15	K	Sections – Height Plan	14/10/2021	Boffa Robertson Group	26/10/2021
1813/DA15A	L	Sections – Height Plan	14/10/2021	Boffa Robertson Group	26/10/2021
SKO9	V	Landscape Plan Ground Floor	March 2022	Umbaco Landscape	14/03/2022
SK10	T	Landscape Plan First and Second Floor	October 2021	Umbaco Landscape	26/10/2021

except as amended by the following conditions and this consent.

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

2. Amend Condition C24 Protection of Trees to delete T26 *Platanus x hybrida*

Protection of Trees

C24. The following tree(s) 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:

Tree	Location	Height
2 <i>Callistemon citrinus</i>	Council Verge – Aubin St	2.2
3 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	4
4 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	3.5
5 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	4
6 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	5
7 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	4
8 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	4
<i>Sapium sebiferum</i>	Council verge, southern boundary of 58a Wycombe Rd	3
<i>Pyrus</i> sp.	Council verge outside 56 Wycombe Rd	2.5
10 <i>Ulmus parviflora</i>	Within front setback-54 Wycombe Rd	11
15 <i>Jacaranda mimosifolia</i>	Within front setback-56 Wycombe Rd	9
16 <i>Platanus x hybrida</i>	Within front setback-56 Wycombe Rd	19
21 <i>Callistemon viminalis</i>	Within rear setback-56 Wycombe Rd	5
22 <i>Eucalyptus scoparia</i>	Within rear setback-56 Wycombe Rd	20
<i>Deleted</i>		
30 <i>Celtis sinensis</i>	Within front setback-58 Wycombe Rd	9

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.

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)

3. Amend Condition C33 Compliance with Acoustic Report

Compliance with Acoustic Report

C33. The recommendations contained in the acoustic reports prepared by *Marshall Day Acoustics* dated 10 September 2019 and 22 October 2021 (Rp 006 r02 20181400), must be implemented during construction and use of the development.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in Section 5 of the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

The Principal 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 maintain an appropriate level of amenity for adjoining land uses)

4. Amend Condition G13 Certification of Tree Condition

Certification of Tree Condition

G1. 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 specifically nominated below: -

(Reference No.) Tree	Location	Height/Size
<i>Callistemon citrinus</i> (replacement) x 2	Council Verge – Aubin St	100l
2 <i>Callistemon citrinus</i>	Council Verge – Aubin St	2.2
3 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	4
4 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	3.5
5 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	4
6 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	5
7 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	4
8 <i>Sapium sebiferum</i>	Council verge – Wycombe Rd	4
<i>Sapium sebiferum</i>	Council verge, southern boundary of 58a Wycombe Rd	3
<i>Pyrus</i> sp.	Council verge outside 56 Wycombe Road	2.5
10 <i>Ulmus parviflora</i>	Within front setback-54 Wycombe Rd	11
15 <i>Jacaranda mimosifolia</i>	Within front setback-56 Wycombe Rd	9
16 <i>Platanus x hybrida</i>	Within front setback-56 Wycombe Rd	19
21 <i>Callistemon viminalis</i>	Within rear setback-56 Wycombe Rd	5
22 <i>Eucalyptus scoparia</i>	Within rear setback-56 Wycombe Rd	20
30 <i>Celtis sinensis</i>	Within front setback-58 Wycombe Rd	9
<i>Plantus orientalis digitata</i> (replacement for T26)	Within front setback-58 Wycombe Rd	1000L

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 compliance with the terms of this consent)

The proposed modifications are considered to be substantially the same development as originally approved by the Sydney North Planning Panel and has regard to the reasons for approval. The proposed modifications would address a number of construction and design related issues arising through the construction certification documentation process and also seeks to reduce the potential impact of the approved development on the amenity of the adjoining properties.

The proposed modifications are considered satisfactory having regard to the heritage significance of the heritage listed dwelling and the Kurraba Point Conservation Area.

Reason for approval:

The proposed modification to reduce the height of the rear boundary fencing seeks to balance the amenity impacts of the higher boundary fencing with the potential acoustic benefits. Nevertheless, the acoustic attenuation works approved by the previous modification application (DA306/2019/2) would still result in an improved outcome for the adjoining property with regard to noise impacts.

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 considered reasonable and therefore the application is recommended for **approval**.

How community views were taken into account:

The application was notified in accordance with Council's Community Engagement Protocol from 5 November 2021 until 19 November 2021 and from 18 February 2022 until 4 March 2022. The proposed modifications, in part, have been proposed to balance the potential impacts on the amenity of the adjoining property in consultation with the affected neighbours. Other conditions of consent have previously been imposed that seek to minimise the potential ongoing and construction impact of the development.

The conditions attached to the original consent for Development Application No. 306/19 by endorsed date of 9 September 2020 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Michael Stephens**. 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
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)