

Original signed by David Hoy on 30/05/2022

Minto Planning Services
PO Box 424
BEROWRA NSW 2081

D78/21
RW (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 78/21/2 - APPROVAL**

Development Consent Number:	78/21
Land to which this applies:	1A McHatton Street, Waverton Lot No.: 7, DP: 17640
Applicant:	Minto Planning Services
Proposal:	To modify Condition A1 and C3 of consent DA78/21/1 for the alterations and additions to a dual occupancy in a Conservation Area

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. **78/21** and registered in Council's records as Application No. **78/21/2** relating to the land described as **1A McHatton Street, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **16 September 2021**, has been determined in the following manner:

A. Add Condition A5 as follows:

Development in Accordance with Plans (s4.55 Amendments)

1. The development being carried out in accordance with plans identified in Condition A1 of the consent and A5 of the modification to consent endorsed with Council's approval stamp, except as modified by the modifications shown on:

Plan No.	Rev	Description	Prepared by	Dated
DA201	01	Site Plan	Popov Bass	04/04/2022
DA202	01	Lower Ground Floor Plan	Popov Bass	04/04/2022
DA203	01	Ground Floor Plan	Popov Bass	04/04/2022
DA204	01	Level 01 Plan	Popov Bass	04/04/2022
DA205	01	Roof Plan	Popov Bass	04/04/2022
DA206	01	North Elevation	Popov Bass	04/04/2022
DA207	01	South Elevation	Popov Bass	04/04/2022
DA208	01	East Elevation	Popov Bass	04/04/2022
DA209	01	West Elevation	Popov Bass	04/04/2022

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

A. Modify Conditions C3 and C82 as follows:

Heritage Design Amendments

C3. The proposed glass windows and doors on the top floor of the southern elevation are to consist of opaque glazing from the ground level up to a sill height of 1.5 m.

Council's Conservation Planner has outlined the following design amendments below:

- That the existing garden gates along McHatton Street must be retained in situ as part of the original elements of the perimeter brick boundary fence and gates.
- That the height of the new addition shall be adjusted to match the height of the existing roof ridge capping.
- That the existing fenestration/window openings, patterns and detailing shall be:
 - o Retained in the eastern elevation of the existing dwelling.
 - o Retained in the north-facing projecting gable and be adapted by dropping the eaves of the existing window to retain its original fenestration character. The new work to create a lightweight linking structure shall be designed around the existing gable detailing which is to remain in situ.
 - o Retained in relation to the readjusted location of the window on the western elevation following changes to the internal room layout.
- That the extension of the gable roof over the entry porch must match the existing.
- ~~All new window and door frames are to be of timber joinery.~~
- All new windows and door frames in the northern and eastern elevation (with the exception of Bedroom 2 window) are to be constructed in timber joinery. All other windows and door frames are to be constructed with powder coated aluminum frames and with a design in keeping with the aesthetics of the existing timber windows and doors. The development consent would be subject to Conditions A4 and E11.

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 protect the character of the contributory item and the Crows Nest conservation area)

C82. Original BASIX Certificate (A407206) is required to be updated in accordance with the modification consent for proposed works.

Reasons 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 subject to conditions, do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications subject to conditions, are consistent with the reasons for the grant of development consent to the originally approved development and are considered to be acceptable.

Having regard to the provisions of section 4.55 and 4.15(1a) 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, subject to imposition of conditions**.

How community views were taken into account:

No notification was required for this modification proposal due to minimal impact on adjoining properties and the environment.

The conditions attached to the original consent for Development Application No. **78/21** by endorsed date of **16 September 2021** still apply.

ADVISINGS

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

30 May 2022

DATE

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