



Leon Varley
16 Bowling Green Lane
AVALON BEACH NSW 2107

D53/21
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 53/21/2 - APPROVAL**

Development Consent Number: 53/21

Land to which this applies: 26 Margaret Street, North Sydney
Lot No.: 14, DP: 2432

Applicant: Leon Varley

Proposal: Modifications to development consent (**D53/21**) for alterations and additions to an existing detached dwelling

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. **53/21** and registered in Council's records as Application No. **53/21/2** relating to the land described as **26 Margaret Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **7 May 2021**, has been determined in the following manner:

- To modify the development consent (D53/21) and modify conditions A1, A4, C16 and G7 to read as follows:***

Development in Accordance with Plans (S4.55 Amendments)

- A1. The development being carried out in accordance with the following drawings:

Drawing No. /Rev	Date	Title	Prepared by
DA04 Rev B	30/04/2021	Site-Waste-Sediment Plan	Progressive Plans
DA07 Rev B	30/04/2021	Existing Lower Ground Floor Plan	Progressive Plans
DA08 Rev B	30/04/2021	Proposed Lower Ground Floor Plan	Progressive Plans
DA09 Rev B	30/04/2021	Existing Ground Floor Plan	Progressive Plans
DA10 Rev B	30/04/2021	Proposed Ground Floor Plan	Progressive Plans
DA11 Rev B	30/04/2021	Existing First Floor Plan	Progressive Plans
DA12 Rev B	30/04/2021	Proposed First Floor Plan	Progressive Plans
DA13 Rev B	30/04/2021	Existing Second Floor Plan	Progressive Plans
DA14 Rev B	30/04/2021	Proposed Second Floor Plan	Progressive Plans
DA15 Rev B	30/04/2021	Existing Roof Plan	Progressive Plans
DA16 Rev B	30/04/2021	Proposed Roof Plan	Progressive Plans

DA17 Rev B	30/04/2021	Elevations - North	Progressive Plans
DA18 Rev B	30/04/2021	Elevations - South	Progressive Plans
DA19 Rev B	30/04/2021	Elevations - East & West	Progressive Plans
DA20 Rev B	30/04/2021	Sections AA	Progressive Plans
DA21 Rev B	30/04/2021	Sections BB	Progressive Plans
DA22 Rev B	30/04/2021	Finishes Board	Progressive Plans

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D53/21/2:

Drawing No. /Rev	Date	Title	Prepared by
S4.55 03 Rev A	31/05/2023	Site-Waste-Sediment Plan	Progressive Plans
S4.55 04 Rev A	31/05/2023	Existing Lower Ground Floor Plan	Progressive Plans
S4.55 05 Rev A	31/05/2023	Proposed Lower Ground Floor Plan	Progressive Plans
S4.55 06 Rev A	31/05/2023	Existing Ground Floor Plan	Progressive Plans
S4.55 07 Rev A	31/05/2023	Proposed Ground Floor Plan	Progressive Plans
S4.55 08 Rev A	31/05/2023	Existing First Floor Plan	Progressive Plans
S4.55 09 Rev A	31/05/2023	Proposed First Floor Plan	Progressive Plans
S4.55 10 Rev A	31/05/2023	Existing Second Floor Plan	Progressive Plans
S4.55 11 Rev A	31/05/2023	Proposed Second Floor Plan	Progressive Plans
S4.55 12 Rev A	31/05/2023	Existing Roof Plan	Progressive Plans
S4.55 13 Rev A	31/05/2023	Proposed Roof Plan	Progressive Plans
S4.55 14 Rev A	31/05/2023	Elevations - North	Progressive Plans
S4.55 15 Rev A	31/05/2023	Elevations - South	Progressive Plans
S4.55 16 Rev A	31/05/2023	Elevations - East & West	Progressive Plans
S4.55 17 Rev A	31/05/2023	Sections AA	Progressive Plans
S4.55 18 Rev A	31/05/2023	Sections BB	Progressive Plans
S4.55 19 Rev A	31/05/2023	Finishes Board	Progressive Plans

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

External Finishes and Materials

A4. External finishes and materials must be in accordance with the submitted Finishes Board S4.55 19 Rev A dated 31.05.23, prepared by Progressive Plans, unless otherwise modified by Council in writing unless otherwise modified by Council in writing.

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

BASIX Commitments

C16. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **A490357_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)

Compliance with Certain Conditions

G7. Prior to the issue of any Occupation Certificate, Condition C2 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

2. To insert new condition A5, to read as follows:

Terms of Consent (D53/21/2)

A5. Approval is granted for the following modifications only:

Lower Ground Floor :

- Internal modifications to approved rumpus layout;
- Retention of the existing rumpus room window (W01);
- Retention of the existing spiral staircase within the entrance hallway; and
- Front door updated to include two (2) sidelights on each side.

Ground Floor :

- Retention of existing layout for the ground floor including existing spiral staircase;
- Revised windows on the northern elevation with highlight windows (W02, W04, W05) and frosted kitchen flashback window (W03); and
- Retention of the existing balcony on the eastern (street) elevation with a new replacement balustrade featuring a composite material with a timber finish.

First Floor :

- Modifications to the design of the balustrade along the northern edge of the rear terrace to comply with the relevant NCC requirements;
- Installation of replacement balustrades along western edge of the rear terrace;
- Retention of existing spiral staircase and the internal staircase to the second floor;
- Modifications to the layout of the master bedroom with glazed sliding doors (D03) to the balcony and a new window (W07) on the eastern wall;
- Repositioning of staircase window (W06) on the northern elevation; and
- Retention of the existing balcony on the eastern (street) elevation with a new replacement balustrade featuring a composite material with a timber finish.

Second Floor :

- Retention of existing staircase to first floor;
- Modifications to the design of the balustrade along the northern edge of the rear balcony to comply with the relevant NCC requirements;
- Installation of replacement balustrades along western edge of the rear balcony; and
- Deletion of 3 x approved skylights and installation of 1 x circular skylight on the roof.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear)

3. To delete condition C1 (Design Modifications):

Design Modifications

C1. The design of the ground floor and first floor balconies on the eastern (Margaret Street) elevation shall be modified as follows:

- (a) The cladding for the balustrades of the ground and first floor balconies shall be changed to vertical timber battens cladding with zero transparency in order to allow the use of traditional materials within a conservation area; and
- (b) The installation of a 750mm wide planter on the northern edge of the balconies. The height of the planters shall match the planters on the southern edge of the ground and first floor balconies to provide privacy protection for the adjoining property to the north.

The modified design for the balconies must be submitted for the written approval by Council Team Leader Assessments. 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 use of traditional materials within a conservation and visual privacy protection for the adjoining properties)

Reasons for Approval:

The proposed modifications are considered to be generally consistent with the originally approved development application. An evaluation of the proposal against the relevant provisions under s.4.55 of the *Environmental Planning and Assessment Act 1979* confirms that the proposed modification reflects a development that is substantially the same as originally approved and will result in minimal environmental impacts.

The proposed modifications have been assessed against the North Sydney LEP 2013 and North Sydney DCP 2013 and were found to be generally satisfactory.

The proposed modifications comply with the LEP maximum building height limit and the DCP's site coverage requirements and will not change the provision of landscaped area and unbuilt upon area as approved in the original DA.

The proposed modifications would not cause additional impacts on the amenity of the surrounding properties in terms of the loss of significant views, privacy and solar access.

The proposed modifications would have no additional adverse impacts on the significance of the conservation area.

The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55 and 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:

The subject application was notified to adjoining properties and Anderson Precinct inviting comment between 23 June and 7 July 2023. The notification of the application has attracted no submissions.

The conditions attached to the original consent for Development Application No. **53/21** by endorsed date of **7 May 2021** still apply.

ADVISINGS

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



31 August 2023

DATE

Signature on behalf of consent authority
MIGUEL RIVERA
A/TEAM LEADER (ASSESSMENTS)