

Original signed by David Hoy on 26/11/2021

Tim Horton and Kristy Blaauw
46 Myrtle Street
NORTH SYDNEY NSW 2060

D272/20
SG3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 272/20/2 - APPROVAL**

Development Consent Number: 272/20

Land to which this applies: 46 Myrtle Street, North Sydney
Lot No.: 4, DP: 74598

Applicant: Timothy Horton

Proposal: Section 4.55(1A) amendments to Heritage Condition C2, Structural adequacy of existing building C4, Sandstone re-pointing C8, Heritage architect to be commissioned C9, Re-use of sandstone E1

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. **272/20** and registered in Council's records as Application No. **272/20/2** relating to the land described as 46 Myrtle Street, North Sydney.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 21 December 2020 has been determined in the following manner:

1. To amend Condition C2 to read as follows:

C2. Heritage Amendments

a) Roof Sheeting

The new metal roof to the rear addition only is to have a traditional corrugated roof profile equal to Custom Orb/Custom Orb 35 (for 2 degrees). No approval is given for min-orb or tray profile roof sheeting.

(Reason: To ensure the use of materials consistent with the character of the Conservation Area and original dwelling)

b) Weatherboards

The weatherboard cladding is to be natural timber weatherboard or composite material cladding equal to 'Scyon Linear' cladding, with traditional profile and paint finish, 16mm thick and 180 mm wide, laid in a horizontal pattern. No approval is given for any other type of artificial weatherboards, or fibre cement cladding.

(Reason: To ensure the use of materials consistent with the character of the conservation area)

c) New Windows and Doors

New windows and doors are to have aluminium or steel framing sections of a width 45mm or wider or are to be timber-framed. The Certifying Authority must also 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 be sympathetic to the character of the conservation area and the original dwelling)

d) Deleted

e) Deleted

f) Deleted

g) Deleted

h) Deleted

i) Deleted

j) Deleted

k) Deleted

l) Deleted

m) Pavers

Matte finish pavers are to be used.

n) Deleted

(Reason: To be sympathetic to the palette of materials used in the conservation area)

2. To delete condition Nos. C8, C9 and E1 from the consent.

3. The request to delete Condition C4 is not supported on the grounds that the approved demolition work requires certification of an appropriately qualified and practicing structural engineer to ensure the structural integrity of the building is maintained.

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 do not result in any material amenity impact to adjoining properties or the surrounding 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.

Reasons for Approval:

For the reasons stated through the report the proposed condition amendments are not considered to adversely impact upon the Holtermann Estate C conservation area or the streetscape.

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:

Due to the minor nature of the modification, the modification did not require notification to adjoining sites.

The conditions attached to the original consent for Development Application No. 272/20 by endorsed date of 21 December 2020 still apply.

ADVISINGS

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

26 November 2021

DATE

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