

SCECGS Redlands Ltd
272 Military Road
CREMORNE NSW 2090

D381/19
AB7 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 381/19/2 - APPROVAL

Development Consent Number: 381/19/2

Land to which this applies: 2-4 Winnie Street & 3 Monford Place, Cremorne
Lot No.: 3, DP: 537701

Applicant: SCECGS Redlands Ltd

Proposal: Modification of Consent No 381/19 to change conditions.

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. **381/19** and registered in Council's records as Application No. **381/19/2** relating to the land described as **2-4 Winnie Street & 3 Monford Place, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 24 April 2020, has been determined in the following manner: -

1. Condition C14 is modified as follows:

Tree Bond for Public Trees

C14. Prior to the issue of any construction certificate, security in the sum of **\$18,000.00** must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security must be provided by way of:

- a deposit with the Council; or
- a guarantee satisfactory to Council (such as a satisfactory bank guarantee).

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged, Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree Species	Location	Bond
<i>Tristaniopsis laurina</i> (10x12m)	Council verge in front of 2a Winnie Street	\$5,000
Tree 3 1 x <i>Tristaniopsis laurina</i> (4.5mx3m)	Council verge in front of 4 Winnie Street	\$2,000
<i>Tristaniopsis laurina</i> (10x10m)	Council verge in front of 6 Winnie Street	\$5,000
<i>Corymbia sp</i> (16 x 12m)	Council verge in front of 3 Monford Place	\$5,000
<i>Corymbia sp</i> (4x2m)	Council verge in front of 5 Monford Place	\$1,000

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

2. Condition C15 is modified as follows:

Protection of Trees

C15. The following trees are required to be protected and retained as a part of the development consent in accordance with AS 4970-2009- Protection of trees on development sites.

Tree	Location	Height
<i>Tristaniopsis laurina</i>	Council verge in front of 2a Winnie Street	10x12m
Tree 3 <i>Tristaniopsis laurina</i>	Council verge in front of 4 Winnie Street	4.5mx3m
<i>Tristaniopsis laurina</i>	Council verge in front of 6 Winnie Street	10x10m
<i>Corymbia sp</i>	Council verge in front of 3 Monford Place	16 x 12m
<i>Corymbia sp</i>	Council verge in front of 5 Monford Place	4x2m
Tree 1 <i>Cedrus deodara</i>	Within the rear setback of 2 Winnie Street	15x14m

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. Condition C20 is modified as follows:

Security Deposit/Guarantee Schedule

C20. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Footpath/Infrastructure Damage Bond	\$5,000.00
Bond for trees within public land	18,000.00
TOTAL BONDS	\$23,000.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

4. Condition G7 is modified as follows:

Certification of Tree Condition

G7. 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: -

Tree	Location	Height
<i>Tristaniopsis laurina</i>	Council verge in front of 2a Winnie Street	10 m x 12 m
Tree 3 <i>Tristaniopsis laurina</i>	Council verge in front of 4 Winnie Street	4.5 m x 3 m
<i>Tristaniopsis laurina</i>	Council verge in front of 6 Winnie Street	10 m x 10 m
<i>Corymbia sp</i>	Council verge in front of 3 Monford Place	16 m x 12 m
<i>Corymbia sp</i>	Council verge in front of 5 Monford Place	4 m x 2 m
Tree 1 <i>Cedrus deodara</i>	Within the rear setback of 2 Winnie Street	15 m x 14 m

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)

Reason for approval:

The proposed modifications to the tree protection conditions satisfies the provisions of Section 4.55 (1A) in that the proposed development remains the same as what was approved by DA 381/19. The proposed modifications will not alter the use, extent or the form of the development as originally approved.

The removal of trees on Gerard Street from the tree protection and bond conditions is considered to be appropriate on the basis that they will not be impacted by development, and the Gerard Street frontage of the school site is not relevant to the construction or development as approved under DA 381/19.

The proposed modifications would not change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013. There would be no undue impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains consistent with 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(1A) application be approved.

How community views were taken into account:

There is no requirement to advertise a Section 4.55(1A) application pursuant to Section 3.4.2 of Council's Community Engagement Protocol.

The conditions attached to the original consent for Development Application No. 381/19 by endorsed date of 24 April 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

11 November 2021

DATE

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