

Original signed by Robin Tse on 9/6/2022

Simon Grant Agar  
39 Young Street  
CREMORNE NSW 2090

D135/20  
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 135/20/4 - APPROVAL**

<b>Development Consent Number:</b>	<b>135/20</b>
<b>Land to which this applies:</b>	39 Young Street, Cremorne Lot No.: 1, DP: 86973
<b>Applicant:</b>	Simon Agar
<b>Date of Determination</b>	8 June 2022
<b>Proposal:</b>	Section 4.55(1A) modification relating to alterations and additions, including a first-floor addition to an existing dwelling house

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. **135/20** and registered in Council's records as Application No. **135/20/4** relating to the land described as **39 Young Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **27 November 2020**, has been determined in the following manner:

**1. To insert Condition A5 Development in Accordance with Plans (s4.55 Amendments)**

A5. 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	Prepared	Received
S455-01	B	Site Plan	13/04/2022	Fortey + Grant Architecture	28/04/2022
S455-02	B	Level 1 Lower Ground Floor Plan	13/04/2022		28/04/2022
S455-03	B	Level 2 Ground Floor Plan	13/04/2022		28/04/2022
S455-04	B	Level 3 Attic Plan	13/04/2022		28/04/2022
S455-05	B	Roof Plan	13/04/2022		28/04/2022
S455-06	B	North and West Elevation	13/04/2022		28/04/2022
S455-07	B	South and East Elevation	13/04/2022		28/04/2022
S455-08	B	Sections	13/04/2022		28/04/2022

except as amended by the following conditions and this consent.

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

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**Reasons for Approval:**

The modification application meets the requirements of section 4.55(1A) and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1) of the Act, which have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

The proposed modifications are considered substantially the same development as that originally approved and of minimal environmental impact as the proposed modifications simply seek to resolve the inconsistencies between DA135/2020/2 and DA135/2020/3 that arose due to an error in the drafting of the plans. The development would be entirely consistent with the modifications approved under DA135/2020/2 and DA135/2020/3 respectively and would not introduce any new impacts that have not previously been considered and approved.

The proposed modification is therefore considered reasonable and is recommended for approval.

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**How community views were taken into account:**

The application was notified in accordance with Council's Community Engagement Protocol from 13 May 2022 until 27 May 2022. The application was notified to ensure that the public were aware of the changes to the consent to resolve the inconsistencies between DA135/2020/2 and DA135/2020/3 that arose due to an error in the drafting of the plans.

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The conditions attached to the original consent for Development Application No. **135/20** by endorsed date of **27 November 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 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**

**9 June 2022**

\_\_\_\_\_  
DATE

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Signature on behalf of consent authority  
ROBIN TSE  
**A/TEAM LEADER/ (ASSESSMENTS)**