

Original signed by **Robyn Pearson** on **5/07/2022**

Donald Charles Proctor
4 Illiliwa Street
CREMORNE NSW 2090

D60/20
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 60/20/2 - APPROVAL**

Development Consent Number:	60/20/2
Land to which this applies:	4 Illiliwa Street, Cremorne Lot No.: 2, DP: 850338
Applicant:	Donald Charles Proctor
Proposal:	Modification of DA 60/20 to provide for internal and external changes including new windows and changes to roof

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. **60/20** and registered in Council's records as Application No. **60/20/2** relating to the land described as **4 Illiliwa Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **23 June 2020**, has been determined in the following manner:

1. Condition A1 is amended as follows:

Development in Accordance with Plans (S4.55 Amendments)

A1. The development must be carried out in accordance with the following drawings and documents endorsed with Council's approval stamp:

Drawing Number	Issue	Title	Drawn by	Dated
A3 11.01	2	Site Plan	Envirotecture	19/12/2019
A3 21.01	1	Proposed Lower Ground Floor	Envirotecture	19/12/2019
A3 21.02	1	Proposed Ground Floor Plan	Envirotecture	19/12/2019
A3 21.03	2	Proposed First Floor Plan	Envirotecture	19/12/2019
A3 21.04	2	Proposed Roof Plan	Envirotecture	19/12/2019
A3 30.01	3	Elevations - North and East	Envirotecture	19/12/2019
A3 30.02	3	Elevations - South and West	Envirotecture	19/12/2019
A3 41.01	3	Sections - Proposed	Envirotecture	19/12/2019
A3 41.02	3	Sections - Proposed	Envirotecture	19/12/2019
A3 41.03	2	Sections - Proposed	Envirotecture	19/12/2019
A3 100.01	2	Perspectives	Envirotecture	19/12/2019
A3 101.01	2	Streetscape Perspective	Envirotecture	07/04/2020
A3 101.03	2	Streetscape Perspective	Envirotecture	07/04/2020

Except as modified as such on the following drawings for DA 60/20/2:

Drawing Number	Issue	Title	Drawn by	Dated
A3 11.01	C	Site Plan	Envirotecture	30/03/2022
A3 21.01	C	Proposed Lower Ground Floor Plan	Envirotecture	30/03/2022
A3 21.02	C	Proposed Ground Floor Plan	Envirotecture	30/03/2022
A3 21.03	C	Proposed First Floor Plan	Envirotecture	30/03/2022
A3 21.04	C	Proposed Roof Plan	Envirotecture	30/03/2022
A3 30.01	C	Elevations - North and East	Envirotecture	30/03/2022
A3 30.02	C	Elevations - South and West	Envirotecture	30/03/2022
A3 41.01	C	Sections - Proposed	Envirotecture	30/03/2022
A3 41.02	C	Sections - Proposed	Envirotecture	30/03/2022
A3 41.03	C	Sections - Proposed	Envirotecture	30/03/2022
A3 100.01	C	Perspectives	Envirotecture	30/03/2022
A3 101.01	C	Streetscape Perspective	Envirotecture	30/03/2022
A3 101.03	C	Streetscape Perspective	Envirotecture	30/03/2022

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

2. Condition C2 is deleted as follows:

~~Deletion of Gable End window~~

~~C2. Window WF.06 within the southeast facing gable end of the proposed first floor addition shall be deleted.~~

~~Details demonstrating compliance are to be submitted with the Construction Certificate.~~

~~The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requires of this condition, is referenced on and accompanies the Construction Certificate.~~

~~(Reason: To provide an acceptable and characteristic building design)~~

3. Condition C17 is amended as follows:

BASIX Certificate

C14. 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. A439752_02, dated 4 May 2022, 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)

4. Condition G5 is amended to delete reference to Condition C2 as follows:

Compliance with Certain Conditions

G5. Prior to the issue of any Occupation Certificate, Conditions C1, C2, C4 and C5 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)

Reasons for Approval:

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposed development remains substantially the same as what was approved by DA 60/20. The proposed modifications will not alter the use of the development as originally approved and amenity impacts remain acceptable. The proposed modifications would not significantly change the level of compliance with the relevant development standards and controls as contained in NSLEP 2013 and NSDCP 2013.

While the extension of the first-floor footprint will result in additional roof area that is above the 8.5m height level, the additional height will not result in significant amenity, bulk, or character impacts, and is considered to be a modest and acceptable addition. Condition C2 of the original consent may be deleted, as its requirement to delete window W6 as a feature of the plans, is no longer applicable as this change has been shown on the plans approved by this modification.

Overall, the proposed works will provide improved resident amenity without negatively impacting the neighbourhood character, and the Benelong Neighbourhood. The proposal also remains consistent with the objectives of the R2 Low Density Residential Zone and 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(2) application be **approved**.

How community views were taken into account:

The subject application was notified to adjoining properties and the Brightmore Precinct Committee seeking comment, and no submissions were received. Nevertheless, it is considered that the proposed modifications would not substantially alter the impacts of what has already been approved under the original consent and would not cause any unreasonable impacts to the streetscape and/or adjoining properties.

The conditions attached to the original consent for Development Application No. 60/20 by endorsed date of 23 June 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

5 July 2022

DATE



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