

Original signed by **Robyn Pearson** on **19/07/2022**

Gelder Group Architects  
19-23 Bridge Street  
PYMPLE NSW 2073

D94/20  
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION [Records No] - APPROVAL**

**Development Consent Number:** 94/20

**Land to which this applies:** 27 Benelong Road, Cremorne  
Lot No.: 24, Sec: C, DP: 5107

**Applicant:** Gelder Group Architects

**Proposal:** Modification of DA 94/20 to include a rear deck, lower balustrade, and strata subdivision

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. **94/20** and registered in Council's records as Application No. **94/20/3** relating to the land described as **27 Benelong Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **9 July 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 No.	Title	Drawn by	Dated	Received
-	Site Plan and Site Analysis Plan	Rob Crump Design	16/4/2020	11/5/2020
-	Proposed Floor Plans and Elevations	Rob Crump Design	16/4/2020	11/5/2020
-	Landscape Plan	iScape Landscape Architecture	April 2020	11/5/2020
C1	Cover Sheet and Notes	ACOR Consultants	16/4/2020	11/5/2020
C2	Stormwater Management Plan	ACOR Consultants	16/4/2020	11/5/2020
C3	Driveway Long Sections	ACOR Consultants	16/4/2020	11/5/2020

Except as modified as such on the following drawings for DA 94/20/3:

Drawing No.	Issue	Title	Drawn by	Dated	Received
01	01	Roof and Floor Plans	Gelder Group Architects	21/04/2022	19/05/2022
02	02	Elevations and Sections	Gelder Group Architects	17/05/2022	19/05/2022
-	B	Landscape Plan	iScape Landscape Architecture	20/10/2021	19/05/2022
1/3	-	Plan of Subdivision	Stuart John Hildebrand	26/04/2022	07/06/2022
2/3	-	Plan of Subdivision	Stuart John Hildebrand	26/04/2022	07/06/2022
3/3	-	Plan of Subdivision	Stuart John Hildebrand	26/04/2022	07/06/2022

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

**2. Condition C17 is amended as follows:**

**Balcony Balustrade**

C17. The balustrade of the first-floor rear balcony on the south-western side facing No. 25 Benelong Road is to be converted to a privacy screen to match the privacy screen on the north-eastern side of the balcony facing No. 29 Benelong Road.

Amended plans 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 amended plans and specifications fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity and the maintenance of visual and acoustic privacy for adjoining properties)

**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 94/20. 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 new deck in the rear garden will result in a small 2.1% non-compliance in the unbuilt-upon area control in NSDCP 2013, this deck is a structure of modest height and footprint built over an existing sandstone outcrop, and will not result in significant amenity, bulk, or character impacts.

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Overall, the proposed works will provide improved resident amenity without negatively impacting the neighbourhood character, the amenity of adjoining properties, 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**.

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

The subject application was notified to adjoining properties and the Brightmore Precinct Committee seeking comment, and one submission was received raising privacy concerns regarding the rear deck. 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.

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The conditions attached to the original consent for Development Application No. **94/20/3** by endorsed date of **9 July 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**

**19 July 2022**

\_\_\_\_\_  
DATE

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