

Original signed by **Robyn Pearson** on **2 August 2022**

Maxwell Lee  
504/18 Woodville Street  
HURSTVILLE NSW 2220

D343/18  
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED**  
**SECTION 4.55 MODIFICATION 343/18/2 - APPROVAL**

**Development Consent Number:** 343/18

**Land to which this applies:** 82 Cremorne Road, Cremorne Point  
Lot No.: 26, SEC: B, DP: 4150

**Applicant:** Maxwell Lee

**Date of Determination:** 18 July 2022

**Proposal:** Section 4.55(2) modification relating to partial demolition of existing dwelling house and garage, and construction of a three-storey rear addition with two vehicle garage, swimming pool and associated landscaping

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. **343/18** and registered in Council's records as Application No. **343/18/2** relating to the land described as 82 Cremorne Road, Cremorne Point.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **5 June 2019**, has been determined in the following manner:

**A. Insert Conditions A5 and C23**

**Development in Accordance with Plans (s4.55 Amendments)**

A1. 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	Title	Dated	Prepared	Received
A01 C	Site Plan	01/12/2021	Merjie Design	6/12/2021
A02 B	First Floor Plan	26/10/2021		28/11/2021
A03 B	Ground Floor Plan	26/10/2021		28/11/2021
A04 C	Lower-level Floor Plan	22/04/2022		26/04/2022
A05 C	Western Elevation	22/04/2022		26/04/2022

A06 B	Eastern Elevation	26/10/2021		28/11/2021
A07 C	Northern Elevation	22/04/2022		26/04/2022
A08 C	Southern Elevation	22/04/2022		26/04/2022
A09 C	Section A	22/04/2022		26/04/2022
A09 C	Pool Section	22/04/2022		26/04/2022
L01 & L02	Landscape Plans	22/04/2022	BJ Studio	26/04/2022

except as amended by the following conditions and this consent.

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

### **Terrace Landscaping Amendment**

C23 The hob walls/planter box surrounding the rear rooftop landscaping is to have a maximum height of 250 mm above the finished floor level of the terrace (RL 37.21).

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 facilitate the approved landscaping surrounding the rear rooftop terrace without notably increase the bulk and massing of the approved development.)

### **B. Amend Conditions C21, G9 and I1**

#### **Landscaping**

G9 The landscaping shown in the approved landscape plan numbered L02 C, prepared by BJ Studio, dated 24 April 2022, and where amended by Condition C22 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure that the development is in accordance with the determination)

#### **BASIX Certificate**

C21 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 the Basix Certificate No. A428268, dated 31 August 2021 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)

**Maintenance of Approved Landscaping**

- 11 The owner of the premises at 82 Cremorne Road is to maintain the landscaping approved by this consent generally in accordance with drawing number/s L02, prepared by BJ Studio, dated 26 October 2021 as modified by Condition C22. Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

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The modification application has been considered against the requirements of section 4.55(2) 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.

**Reasons for Approval:**

The proposed modifications are considered substantially the same development and of minimal environmental impact. The proposed modifications are minor in nature and generally relate to the internal reconfigurations of the approved dwelling layout. The proposed modifications to windows would not result in any additional privacy impacts to adjoining properties.

The proposed modifications are generally considered reasonable and therefore the application 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 17 September 2021 until 1 October 2021. Six submissions were received which primarily are dealt with by existing conditions of consent as they relate to construction impacts or have been considered in the assessment. Objections regarding elements of the proposal that have already been approved cannot be further considered.

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The conditions attached to the original consent for Development Application No. **343/18** by endorsed date of **5 June 2019** 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**

**2 August 2022**

DATE

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