

Original signed by Miguel Rivera on 5/08/2022

The Owners Corporation Strata Plan 1418
5 Cremorne Road
CREMORNE POINT NSW 2090

D329/18
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 329/18/2 - APPROVAL**

Development Consent Number: 329/18/2

Land to which this applies: 5 Cremorne Road, Cremorne Point
SP: 1418

Applicant: The Owners Corporation Strata Plan 1418

Proposal: Section 4.55(2) modification - to modify consent to consist of additional windows and additional windows to be removed and replaced and delete all approved works within front setback of existing residential flat building

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. **329/18** and registered in Council's records as Application No. **329/18/2** relating to the land described as **5 Cremorne Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 16 November 2018, has been determined in the following manner:

1. To amend 'Proposal' description of the consent to read as follows:

Minor alterations and additions to an existing residential flat building including replacement of windows.

2. To amend Condition A1 of the consent to read as follows:

Development in Accordance with Plans/Documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Revision	Description	Prepared by	Dated
A01	A	Site Plan - West Side	BTB Architecture Studio	7 April 2022
A02	A	Site Plan - East Side		7 April 2022
A03	A	Proposed Elevations - West		7 April 2022
A04	A	Proposed Elevations - East		7 April 2022
A05	A	Sections - AA		7 April 2022
A06	A	Sections - BB (Sheet 1)		7 April 2022
A07	A	Sections - BB (Sheet 2)		7 April 2022

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

3. To amend Condition C9 of the consent to read as follows:

Heritage Requirements

C9. The following heritage requirements must be indicated on the architectural plans that form part of the Construction Certificate:

- a) New windows are to be timber-framed. The Certifying Authority must also 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 be sympathetic to the character of the conservation area and the original building)

4. To delete Conditions C10, G4 and G5 of the consent.

The proposal involves deletion of all approved works within front setback and those relating to the existing side boundary fencing, and inclusion of several windows and bay windows within the residential flat building that are to be removed and replaced.

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including the NSLEP 2013) have been described and detailed throughout this report. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.55 of the Environmental Planning and Assessment Act 1979.

Reason for approval:

Accordingly, it is recommended that the following conditions are modified/amended/deleted in the consent:

- Amend Proposal description to reflect the modified approved development.

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- Amend Condition A1 to include amended plans reflecting the proposed changes.
 - Modify Condition C9 to reflect conditions recommended by Council's Conservation Planner and deletion of new pavers component (as front setback works are removed).
 - Delete Condition C10 due to removal of fencing works.
 - Delete Condition G4 due to intention to retain front setback area as existing.
 - Delete Condition G5 due to removal of front setback and fencing works.

How community views were taken into account:

In accordance with the provisions of Council's Community Participation Plan, the subject application was notified from 27 May to 10 June 2022. No submissions were received during this period.

The conditions attached to the original consent for Development Application No. 329/18 by endorsed date of 16 November 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. 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 August 2022

DATE

Signature on behalf of consent authority
MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER