



Umeshkumar Chandanani  
C/- Anthony Solomon  
60 Waters Road  
CREMORNE NSW 2090

D259/21  
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 259/21/3 - APPROVAL**

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**Development Consent Number:** 259/21

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**Land to which this applies:** 60 Waters Road, Cremorne  
Lot No.: 1, DP: 78609

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**Applicant:** Umeshkumar Chandanani C/- Anthony Solomon

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**Proposal:** Modification of consent to enable alterations and additions to approved development

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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. **259/21** and registered in Council's records as Application No. **259/21/3** relating to the land described as **60 Waters Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **14 December 2021**, 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 documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent:

Drawing No.	Title	Drawn by	Dated	Received
DA101	Proposed Basement Floor Plan	COSO Architecture	Aug 2021	27/08/2021
DA102	Proposed Ground Floor Plan	COSO Architecture	Aug 2021	27/08/2021
DA103	Proposed First Floor Plan	COSO Architecture	Nov 2021	10/11/2021
DA104	Proposed Roof Plan	COSO Architecture	Nov 2021	03/11/2021
DA105	Proposed Section AA	COSO Architecture	Nov 2021	03/11/2021
DA106	Proposed Section BB	COSO Architecture	Nov 2021	03/11/2021
DA107	North Elevation	COSO Architecture	Nov 2021	03/11/2021

DA108	East Elevation	COSO Architecture	Nov 2021	03/11/2021
DA109	South Elevation	COSO Architecture	Nov 2021	03/11/2021
DA110	West Elevation	COSO Architecture	Nov 2021	03/11/2021
DA111	Demolition Plan	COSO Architecture	Aug 2021	27/08/2021
DA114	East Elevation (Fence Elevation)	COSO Architecture	07/01/2022	13/01/2022
DA115	North Elevation (Fence Elevation)	COSO Architecture	07/01/2022	13/01/2022
DA208	Materials and Finishes Schedule	COSO Architecture	Aug 2021	27/08/2021
C01	Proposed Driveway Plan	D.T Civil Engineering	09/11/2021	10/11/2021
L/01	Proposed Landscape Plan	Discount Landscape Plans	20/01/2022	21/01/2022

Except as modified as such on the following drawings for DA 259/21/3:

No.	Title	Drawn by	Dated	Received
100	Site Plan	COSO Architecture	May 2022	28/06/2022
101	Proposed Basement Plan	COSO Architecture	May 2022	28/06/2022
102	Proposed Ground Floor Plan	COSO Architecture	May 2022	28/06/2022
103	Proposed First Floor Plan	COSO Architecture	May 2022	28/06/2022
104	Proposed Roof Plan	COSO Architecture	May 2022	28/06/2022
105	Proposed Section AA	COSO Architecture	May 2022	28/06/2022
106	Proposed Section BB	COSO Architecture	May 2022	28/06/2022
107	North Elevation	COSO Architecture	May 2022	28/06/2022
108	North Elevation (Street)	COSO Architecture	May 2022	28/06/2022
109	East Elevation	COSO Architecture	May 2022	28/06/2022
110	East Elevation (Street)	COSO Architecture	May 2022	28/06/2022
111	South Elevation	COSO Architecture	May 2022	28/06/2022
112	West Elevation	COSO Architecture	May 2022	28/06/2022
114	Material and Finishes Schedule	COSO Architecture	May 2022	28/06/2022

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)

**2. Condition A4 is amended as follows:**

**External Finishes and Materials**

A4. External finishes and materials must be in accordance with the submitted schedule (Plan No. 114), dated May 2022, prepared by COSO Architecture, and received by Council on 28 June 2022.

Plans and specifications which comply 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 that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**3. Condition C12 is amended as follows:**

**Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement**

C12. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$4,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent
- c) Remedying any defects in any such public work that arise within one year for stormwater and six months for major road works and 2 months for vehicular crossing and small associated footpath works, after the work is completed.

The security in accordance with the schedule contained later in these conditions and must be provided by way of a deposit with the Council; or a guarantee satisfactory to Council (such as a satisfactory bank guarantee). The security will be refundable following the expiration of defect risk period for the particular type of work as specified above (under c)), from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

**4. Condition C11 is amended as follows:**

**Privacy**

C11. The following must be applied to the proposed development to protect privacy for the adjoining properties.

- (a) Frosted glazing or equivalent must be applied to the four first-floor bathroom windows; and
- (b) Frosted glazing or equivalent must be applied to the ground floor pantry and laundry windows on the southern elevation facing No. 58 Waters Road.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the privacy for the adjoining properties)

**5. Condition C15 is amended as follows:**

**Rooftop Maintenance Plan and Access**

C15. A roof top maintenance plan must be submitted to Council demonstrating how the landscaping within the rooftop gardens would be maintained in perpetuity. This plan must be submitted to Council for the written approval of Council’s Landscape Development Officer prior to the issue of the construction certificate.

The access stair to the roof-top level is to be a drop-down ladder to allow access to the roof top level via an access hatch on the roof only. No consent is given or implied for a permanent fixed staircase to the roof top level. The plans approved under Condition A1 of this consent must delete any fixed staircase to the roof top level, to be replaced with a drop-down ladder to allow maintenance of the roof top level.

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 requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To maintain the landscape quality of the roof top garden and streetscape presentation, ensure the maintenance of amenity for adjoining properties, and to reflect the terms of this consent)

**6. Condition C19 is amended as follows:**

**Security Bond and Fee Schedule**

C19 All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

<b>Security Deposit/Guarantee</b>	<b>Amount (\$)</b>
Footpath Damage Bond	\$1,000.00
Engineering Construction Bond	\$3,000.00
Street Tree Bond (on Council property)	\$15,000.00
<b>TOTAL BONDS</b>	<b>\$19,000.00</b>

Note: The following fees are also applicable:

<b>Fees</b>	<b>Amount (\$)</b>
Section 7.12 Development Contributions	\$9,497.00
<b>TOTAL FEES</b>	<b>\$9,497.00</b>

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

**7. Condition C20 is amended as follows:**

**BASIX Certificate**

C20. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1302057S, 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)

**8. New Condition C21 is added as follows:**

**Obtain Driveway Crossing Permit under S.138 Roads Act 1993**

C21. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under S.138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum:

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The vehicular crossing and layback in general must match the existing crossing in width and position.
- c) The boundary footpath levels must match the existing levels and shall not be altered unless agreed to by Council.
- d) The gutter levels and road shoulder levels on Waters Road must stay unchanged.
- e) The kerb gutter, and 600 mm road shoulder wide- strip, adjacent to all new layback and gutter works, on Waters Road must be reconstructed, to ensure uniformity in the road reserve.
- f) All inspection openings, utility services must be adjusted to match the proposed driveway levels and location.

- g) If the existing stormwater connection from neighbouring 58 Waters Road, is in collision with proposed vehicular crossing/layback, that stormwater line must be redirected on appropriate position in between those two properties on applicant's expense. The exact location would be determined during the installation process.
- h) Pipelines within the footpath area must be hot dipped galvanized rectangular steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
- i) Any footpath panel on Waters Road or Grasmere Road that is disturbed for the purpose of stormwater connection must be reconstructed as a whole panel.

The permit must be granted by Council prior to the issue of any Construction Certificate.

All driveway and infrastructure works on the road reserve must be undertaken in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained and referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

**9. New Condition C22 is added as follows:**

**Stormwater Management and Disposal Design Plan - Construction Issue Detail**

- C22. Prior to issue of the Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
  - b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity to Council's kerb in Grasmere Road.
  - c) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
  - d) Pipelines within the footpath area shall be hot dipped galvanized steel rectangular hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
  - e) Any footpath panel on Grasmere Road disturbed for the purpose of stormwater connection shall be reconstructed as whole panel.

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 requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

**10. New Condition E25 is added as follows:**

**Service Adjustments**

- E25. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council.

It is the Applicant's full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility what-soever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

**11. New Condition E26 is added as follows:**

**Council Inspection of Public Infrastructure Works**

- E26. During the works on public infrastructure reverting to Councils care and control, Councils development engineer must undertake inspections of the works at the following hold points: -

- a) Vehicular access; and associated road civil works.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

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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 259/21. The proposed modifications will not alter the use of the development as originally approved, are sympathetic to the design of the dwelling as originally approved, and the amenity impacts remain acceptable, particularly in regard to privacy, views, and solar access.

**Reasons for Approval:**

Various amendments to the original consent conditions are recommended to account for the various modifications, with respect to privacy, stormwater, and vehicular access. The original consent requirement for a drop-down ladder to gain access to the roof is recommended to be retained under this consent to ensure that the roof top level remains limited in its accessibility for the purpose of maintenance only.

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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.

The proposed works will provide resident amenity without negatively impacting the neighbourhood character, and the Waters 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 two submissions were received raising privacy concerns. Nevertheless, subject to amendments to the original consent conditions and the retention of the drop-down stair to the roof, 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. 259/21 by endorsed date of **14 December 2021** 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**

**2 September 2022**

DATE



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