



Red Rock Design
 PO Box 293
 MILSONS POINT NSW 1565

D36/20
 MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
 SECTION 4.55 MODIFICATION 36/20/2 - APPROVAL**

Development Consent Number:	36/20
Land to which this applies:	4 Ormiston Avenue, North Sydney Lot No.: 1, DP: 999101
Applicant:	Red Rock Design
Proposal:	Section 4.55(2) modification relating to partial demolition of an existing dwelling house and reconstruction of replacement front portion of the dwelling house

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. **36/20** and registered in Council’s records as Application No. **36/20/2** relating to the land described as **4 Ormiston Avenue, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **27 August 2020**, has been determined in the following manner:

A. Impose conditions A5 and C154 as follows:

Development in Accordance with Plans/Documentation

A5. 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
01 B	Proposed Site Plan	2 Sept 2022	Red Rock Design	4 Sept 2022
02 A	Proposed Lower Ground Floor Plan	6 May 2022		6 May 2022
03 A	Proposed Ground Floor Plan	6 May 2022		6 May 2022
04 A	Proposed First Floor Plan	6 May 2022		6 May 2022
05 A	Proposed Dimensions Plan	6 May 2022		6 May 2022
06 A	Proposed North & South Elevations	6 May 2022		6 May 2022
07 A	Proposed West & East Elevations	6 May 2022		6 May 2022
08 A	Proposed Section & Street Elevation	6 May 2022		6 May 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)

All Works within the Boundaries of the Subject Site

C14. No approval is granted or applied for any building to be constructed or works to be carried out on adjoining land. All works must be contained wholly within the subject site.

Prior to the issue of the Construction Certificate the site boundaries are to be defined and a pegged out by a Register Surveyor.

The Certifying Authority is to ensure that the plans and specifications referenced in the construction certificate indicate works are contained wholly within the subject site.

This consent does not absolve the owners of the subject Lot of any obligations to adjoining landowners including Council under the relevant legislation.

(Reason: To address works located in proximity to undefined property boundaries)

Reasons for Approval:

The modification application meets 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.

The proposed modifications are considered substantially the same development as original granted consent and have been considered with regard to the reasons for the granting of the original consent. The proposed modifications primarily seek to modify the internal layout of the dwelling to suit modern living and are generally consistent with the approved character of the reconstruction of the cottage portion of the original dwelling. The proposed works would not give cause any adverse amenity impact to the surrounding properties.

The proposed modification application is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The application was notified in accordance with Council's Community Engagement Protocol from 27 May 2022 until 10 June 2022. No submissions were received at Council.

The conditions attached to the original consent for Development Application No. **36/20** by endorsed date of **27 August 2020** still apply.

ADVISINGS

(a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **[Officer's name]**. 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

23 September 2022

DATE



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