



Hilit Einav  
Design Your Space  
22 Laurel Street  
WILLOUGHBY NSW 2068

D137/21  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 137/21/2 - APPROVAL**

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**Development Consent Number:** 137/21

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**Land to which this applies:** 1 Prospect Avenue, Cremorne  
Lot No.: 1, DP: 10545

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**Applicant:** Hilit Einav, Design Your Space

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**Proposal:** Section 4.55(1A) modification to approved alterations and additions to an existing dwelling including a first-floor addition and a swimming pool

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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. **137/21** and registered in Council's records as Application No. **137/21/2** relating to the land described as **1 Prospect Avenue, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **2 December 2021**, has been determined in the following manner:

**1. To amend Condition A1, C19 and C23 as follows: -**

**Development in Accordance with Plans (Section 4.55 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:

DA137/21 Approved Plan List

No.	Rev.	Title	Drawn by	Date	Received
A.00.02	C	Site Plan	Hilit Einav Design Your Space	25/10/2021	03/11/2021
A.04.01	B	East Elevation	Hilit Einav Design Your Space	30/07/2021	03/09/2021
A.04.02	C	South Elevation	Hilit Einav Design Your Space	25/10/2021	03/11/2021
A.04.03	C	West Elevation (Rear)	Hilit Einav Design Your Space	25/10/2021	03/11/2021
A.04.04	B	North Elevation	Hilit Einav Design Your Space	30/07/2021	03/09/2021
A.05.01	C	Section A	Hilit Einav Design Your Space	25/10/2021	03/11/2021
A.02.01a	C	Front Yard Landscape Plan	Hilit Einav Design Your Space	25/10/2021	03/11/2021
A.02.01b	C	Rear Yard Landscape Plan	Hilit Einav Design Your Space	25/10/2021	03/11/2021
A.02.02	B	New Ground Floor Plan	Hilit Einav Design Your Space	30/07/2021	21/09/2021
A.02.03	B	New First Floor Plan	Hilit Einav Design Your Space	30/07/2021	21/09/2021
A.02.04	A	New Roof Plan	Hilit Einav Design Your Space	01/05/2021	18/05/2021

DA137/21/2 Approved Plan List

No.	Rev.	Title	Drawn by	Date	Received
A.00.02	D	Site Plan	Hilit Einav Design Your Space	05/05/2022	11/11/2022
A.04.01	C	East Elevation	Hilit Einav Design Your Space	05/05/2022	11/11/2022
A.04.02	D	South Elevation	Hilit Einav Design Your Space	05/05/2022	11/11/2022
A.04.03	D	West Elevation (Rear)	Hilit Einav Design Your Space	05/05/2022	11/11/2022
A.04.04	C	North Elevation	Hilit Einav Design Your Space	05/05/2022	11/11/2022
A.02.01b	D	Rear Yard Landscape Plan	Hilit Einav Design Your Space	05/05/2022	11/11/2022
A.02.02	C	New Ground Floor Plan	Hilit Einav Design Your Space	05/05/2022	11/11/2022
A.02.04	B	New Roof Plan	Hilit Einav Design Your Space	05/05/2022	11/11/2022

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

**Privacy Measures**

C19. The following must be applied to the proposed development to protect privacy for the adjoining properties.

- (a) The lower panes of windows W07, W08, W09, W10, W11, W12, and W13, must be fixed with frosted glazing or equivalent. Opaque films applied to transparent glass that may be easily removed are not permitted;
- (b) The upper and lower panes of windows **W05** and **W06** must be fixed with frosted glazing or equivalent. Opaque films applied to transparent glass that may be easily removed are not permitted; and
- (c) In addition to the privacy screen added to the norther elevation of the top landing of the deck stairs, a privacy screen of 1.8 m in height must be applied to the uppermost northern elevation of the stairs connecting the deck to the rear garden, to a minimum length of 1.4 m.

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 adjoining properties.)

**BASIX Certificate**

C23. Under Clause 75 of the *Environmental Planning and Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **A398554\_03** 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)

**2. To delete Condition C20.**

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**Reasons for Approval:**

The proposed modifications are considered to be of minimal environmental impact and are consistent with the originally approved development application and s.4.55 of the EP&A Act 1979. Furthermore, the modifications do not result in any new material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55 and 4.15 of the *Environmental Planning and Assessment Act 1979*, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for approval.

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

The subject application was notified to adjoining properties and the Willoughby Bay and Brightmore Precinct Committees seeking comment. No submissions were received for the duration of the assessment. The community and public interest is served via the assessment of this application.

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The conditions attached to the original consent for Development Application No. **137/21** by endorsed date of **2 December 2021** still apply.

**ADVISINGS**

(a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Mr Kim Rothe**. 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**

**3 November 2022**

DATE



Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER (ASSESSMENTS)**