



Jacqueline Webster
50 Ellalong Road
CREMORNE NSW 2090

D22/15
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 22/15/2 - APPROVAL**

Development Consent Number: 22/15

Land to which this applies: 50 Ellalong Road, Cremorne
Lot No.: 42 DP: 10291

Applicant: Jacqueline Webster

Proposal: Modification to DA 22/15, involving changes to the internal room layout and consequential minor changes to the windows and doors

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. **22/15** and registered in Council's records as Application No. **22/15** relating to the land described as **50 Ellalong Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **25 May 2015**, has been determined in the following manner:

1. Condition A1 is amended as follows:

Development in Accordance with Plans/Documentation (S4.55 Amendments)

A1. The development must be carried out in accordance with the following drawings and documents endorsed with Council's approval stamp: -

Plan No.	Issue	Title	Drawn by	Received
100	A	Site Plan/site analysis plan	Utz Sanby	3/02/2015
101	B	Plans	Utz Sanby	4/05/2015
102	A	Elevations and sections	Utz Sanby	3/02/2015

Except as modified as such on the following drawings for DA 22/15/2:

Plan No.	Issue	Title	Drawn by	Dated	Received
DA01-01	C	Plans	Utz Sanby Architects	21/09/2022	17/10/2022
DA01-02	C	Elevations and Sections	Utz Sanby Architects	21/09/2022	17/10/2022

Note: Any works completed without consent or without a valid construction certificate prior to 30 November 2022 should be regularised by way of an application for a building information certificate.

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

2. Condition C19 is amended as follows:

BASIX Certificate

C19. Under clause 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **A207339_02** (dated 7 September 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)

3. News Condition G7 is added as follows:

BASIX Completion Certificate

G7. In accordance with Section 45 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, prior to issuing a final occupation certificate the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposed development remains substantially the same as what was approved under the original application. The proposed modifications will not alter the use of the development as originally approved and amenity impacts would remain acceptable. 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.

Reasons for Approval:

While the new outdoor seating area in the rear garden will result in a small increase unbuilt-upon area and loss of landscaped area, these proposed figures remain in compliance with the controls in NSDCP 2013. While the unauthorised addition of a paved sports court elsewhere in the rear garden has resulted in a significant 8% loss of landscaped area and associated increase in unbuilt-upon area, this matter has been referred to Council's Building Compliance Team for further investigation.

Overall, the proposed works will provide improved resident amenity without negatively impacting the neighbourhood character, the amenity of adjoining properties, and the Northern Foreshores Neighbourhood. The proposal also remains consistent with the objectives of the C4 Environmental Living 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**.

How community views were taken into account:

The subject application was notified to adjoining properties and the Willoughby Bay Precinct Committee seeking comment, and no submissions were received. Nevertheless, 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.

The conditions attached to the original consent for Development Application No. **22/15** by endorsed date of **25 May 2015** 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

1 December 2022

DATE



Signature on behalf of consent authority

ROBYN PEARSON

TEAM LEADER (ASSESSMENTS)