



Corben Architects Pty Ltd
PO Box 1021
NEUTRAL BAY NSW 2089

D459/21
TH3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.56 MODIFICATION 459/21/2 - APPROVAL**

Development Consent Number: 459/21

Land to which this applies: 60 Kareela Road, Cremorne Point
Lot No.: D, DP: 409327

Applicant: Corben Architects

Proposal: To modify development consent (DA 459/21) for construction of an attached dual occupancy

Pursuant to Section 4.56 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **459/21** and registered in Council's records as Application No. **459/21/2** relating to the land described as **60 Kareela Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **21 September 2022**, has been determined in the following manner:

A. Add Condition A4 as follows:

Development in Accordance with Plans/Documentation (s4.55 Amendments)

A4. 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 on:

Plan No.	Rev	Title	Drawn by	Received
DA2	F	Site Plan	Corben Architects	17/07/2023
DA4	G	Level 1	Corben Architects	17/07/2023
DA5	H	Level 2	Corben Architects	17/07/2023
DA6	G	Level 3	Corben Architects	17/07/2023
DA7	G	Level 4	Corben Architects	17/07/2023
DA8	G	Roof Plan	Corben Architects	17/07/2023
DA9	G	Northern Elevation	Corben Architects	17/07/2023
DA10	G	Southern Elevation	Corben Architects	17/07/2023
DA11	H	Eastern Elevation	Corben Architects	17/07/2023
DA12	G	Western Elevation	Corben Architects	17/07/2023

DA13	G	Section A	Corben Architects	17/07/2023
DA14	G	Section B	Corben Architects	17/07/2023
DA15	G	Section C	Corben Architects	17/07/2023
DA16	D	Section D	Corben Architects	17/07/2023
L/01 'A'	-	Level 1	A Total Landscape	17/07/2023
L/02 'A'	-	Level 2	A Total Landscape	17/07/2023
L/03 'A'	-	Landscape Details	A Total Landscape	17/07/2023

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 Infrastructure)

B. Modify Condition C23, C29, G13 and I1 as follows:

Location of Plant

C23. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof apart from the location of the 2 x air condenser units on Level 2 (Dwg No. DA5 Rev H). 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

BASIX Certificate

C29. Under Section 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. 1264072M_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)

Landscaping

G13. The landscaping shown in the landscape plan L/01-L/03 'A' dated 10/07/23 and prepared by A Total Concept must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Maintenance of Approved Landscaping

I1. The owner/s of the premises at 60 Kareela Road, Cremorne Point is to maintain the landscaping approved by this consent generally in accordance with drawings numbered L/01-L/03 'A', dated 10/07/23 and prepared by A Total Concept.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure the maintenance of the landscape quality of the subject site and the locality.)

C. Delete Condition C30 as follows:

Amendments to the Landscape Plan

C30. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- Additional tree planting comprising 3 x *Tristaniopsis laurina* (100l) shall be planted within the Level 1 setbacks.

An amended landscape plan 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 amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

Reasons for Approval:

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.56 of the EP&A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granting of development consent to the originally approved development and is considered to be acceptable.

The development subject to this modification application is deemed satisfactory, ensuring the development continues to not detract from the heritage significance of the Cremorne Conservation Area and the development would conserve the setting or visual curtilage of heritage items in the locality.

The lift overrun height will remain below the maximum permitted height stipulated in Clause 4.3 of NSLEP 2013 and the development maintains compliant site coverage, landscaped area and un-built upon area. Sufficient landscaping appropriate for the site and surrounds including tree planting are to be retained.

Having regard to the provisions of section 4.56 and 4.15(1) 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**.

How community views were taken into account:

The subject application was notified to surrounding properties and the Bennett Precinct inviting from 28 April until 12 May 2023. There were no submissions received.

The conditions attached to the original consent for Development Application No. **459/21** by endorsed date of **21 September 2022** still apply.

ADVISINGS

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

22 August 2023

DATE



Signature on behalf of consent authority
MIGUEL RIVERA
A/TEAM LEADER (ASSESSMENTS)