



Mr Rhys T Graham
2/50 MacPherson Street
CREMORNE NSW 2090

D180/23
MAB (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 180/23/2 - APPROVAL**

Development Consent Number:	180/23
Land to which this applies:	2/50 Macpherson Street, Cremorne Lot No.: 2, DP: 16596
Applicant:	Rhys Thomas Graham
Proposal:	Modification to amend conditions of consent relating to development contributions; deletion of landscaping and rainwater tank from approved works

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. **180/23** and registered in Council's records as Application No. **180/23/2** relating to the land described as **2/50 Macpherson Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **9 November 2023**, has been determined in the following manner:

A. Amend the Index of Conditions as follows:

~~**C8. Swimming Pool and Associated Structures-Items deleted from approved works**~~

B. Amend Condition C8 as follows:

~~**Swimming Pool and Associated Structures-Items deleted from approved works**~~

C8. *The swimming pool/spa, pool pavers, decking and pool equipment box are not approved and are to be deleted from the plans and are not to be constructed under this consent. The swimming pool/spa, pool pavers, decking and pool equipment box that are not approved are clouded in red on the relevant plans.*

The rainwater tank and the landscaping works are to be deleted from the approved plans and are not to be constructed under this consent.

The Certifying Authority must ensure that the building plans and specifications submitted with the construction certificate satisfy the above condition.

(Reason: To ensure that the swimming pool/spa and associated structures are not constructed to minimise loss of tree canopy, minimise a visual impact and acoustic impact on residents of adjoining properties)

C. Amend Condition C19 as follows:

Section 7.12 Development Contributions

C19. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is ~~\$3,973.00~~. **\$2,704.00**.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

D. Amend Condition C20 as follows:

Security Deposit/Guarantee Schedule

C20. 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:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$5,000.00
Footpath Damage Bond	2,500.00
TOTAL BONDS	\$7,500.00

Note: The following fees applicable

Fees	
S7.12 Contributions	\$3,973.00 \$2,704.00
TOTAL FEES	\$3,973.00 \$2,704.00

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)

E. Amend Condition G8 as follows:

Compliance with Certain Conditions

G8. Prior to the issue of any Occupation Certificate, C7 - Front Fence, C8 - ~~Swimming Pool and Associated Structures~~ Items deleted from Approved Works and C18 - Screen Planting, must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

Reasons for Approval:

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the *Environmental Planning and Assessment Act 1979*. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area.

Having regard to the provisions of Sections 4.55 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 proposal is considered to be in the public interest for the reasons stated throughout this report.

The conditions attached to the original consent for Development Application No. **180/23** by endorsed date of **9 November 2023** still apply.

ADVISINGS

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

20 December 2023

DATE



Signature on behalf of consent authority
ISOBELLA LUCIC
TEAM LEADER (ASSESSMENTS)