



Mr Richard Monckton
Red Rock Design
PO Box 293
MILSONS POINT NSW 1565

D36/20
TH2 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 36/20/3 - APPROVAL**

Development Consent Number: 36/20

Land to which this applies: 4 Ormiston Avenue, North Sydney
Lot No.: 1, DP: 999101

Applicant: Richard Monckton

Proposal: To modify a consent 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. **36/20/3** 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. Add Condition A6 as follows:

Development in accordance with Plans (s4.55 Amendments)

A6. 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
01	C	Site Plan	Red Rock Design	24/10/2023
02	C	Proposed Lower Ground Floor Plan	Red Rock Design	24/10/2023
03	C	Proposed Ground Floor Plan	Red Rock Design	24/10/2023
04	C	Proposed First Floor Plan	Red Rock Design	24/10/2023
06	C	Proposed North and South Elevations	Red Rock Design	24/10/2023
07	C	Proposed West and East Elevations	Red Rock Design	24/10/2023
08	C	Streetscape Elevation and Section A	Red Rock Design	24/10/2023

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 C13 as follows:

BASIX Certificate

C13. 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. **1373663** for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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)

The proposed modifications are considered to be generally 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 material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the grant of development consent to the originally approved development and are considered to be acceptable.

Reasons for Approval:

The proposed works are considered to satisfy clause 5.10 of NSLEP 2013 and Part B Section 13 of NSDCP 2013 in that the works will result in negligible change to the character and significance of the conservation area.

Having regard to the provisions of section 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 subject application was notified to adjoining properties and Anderson Precinct inviting comment between 24 November to 8 December 2023. There were no submissions following notification of the modification application.

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 **Mr 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

28 February 2024

DATE

Thomas Holman

Signature on behalf of consent authority
THOMAS HOLMAN
SENIOR ASSESSMENT OFFICER