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D9/23
TH2 (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 9/23/2 - APPROVAL**

Development Consent Number: 9/23

Land to which this applies: Unit 4, 35 Murdoch Street, Cremorne
Lot No.: 4, SP: 10924

Applicant: Slade Hugall

Proposal: Section 4.55(2) Modification for alterations and additions to existing upper-level apartment including fenestration changes and amendments to dormer and attic space.

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. **9/23** and registered in Council's records as Application No. **9/23/2** relating to the land described as **Unit 4, 35 Murdoch Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **2 August 2023**, has been determined in the following manner:

A. Add Condition A5 as follows:

Development in accordance with Plans (s4.55 Amendments)

A5. 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
DA-04	E	Demolition Plan	Tightknit Building Design	4/03/2024
DA-05	E	Proposed Floor Plan	Tightknit Building Design	4/03/2024
DA-07	E	Proposed Attic Plan	Tightknit Building Design	4/03/2024
DA-08	E	Proposed Site & Roof Plan	Tightknit Building Design	4/03/2024
DA-09	E	West Elevation	Tightknit Building Design	4/03/2024
DA-10	E	East Elevation	Tightknit Building Design	4/03/2024
DA-11	E	North Elevation	Tightknit Building Design	4/03/2024
DA-12	E	North Section	Tightknit Building Design	4/03/2024

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 C17 as follows:

BASIX Certificate

C17. 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. **1376466_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)

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. 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.

The modifications inclusive of amendments to windows and additional skylights do not result in any visual privacy impact to adjoining properties.

Reasons for Approval:

The proposed dormer subject to this modification would remain sufficiently secondary in scale to the roof, maintaining the primary form, front façade and built form character of the existing building and not highly visible in the context of the surrounding 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 Harrison and/or Bennett Precinct inviting comment between 12 and 26 January 2024. There were no submissions raised following notification of the modification application.

The conditions attached to the original consent for Development Application No. **9/23** by endorsed date of **2 August 2023** 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

19 March 2024

DATE

Thomas Holman

Signature on behalf of consent authority
THOMAS HOLMAN
SENIOR ASSESSMENT OFFICER