



Andy's Home Design Pty Ltd  
783 Warringah Road  
FORESTVILLE NSW 2087

D110/22  
TH2 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 110/22/2 - APPROVAL**

<b>Development Consent Number:</b>	<b>110/22/2</b>
<b>Land to which this applies:</b>	80 Young Street, Cremorne Lot No.: 162, DP: 568723
<b>Applicant:</b>	Andy's Home Design Pty Ltd
<b>Proposal:</b>	To modify a consent for alterations and additions including a first-floor addition

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. **110/22** and registered in Council's records as Application No. **110/22/2** relating to the land described as **80 Young Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **31 October 2022**, 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
DA102	MOD - Final	Site Plan	Andy's Home Design	17/11/2023
DA104	MOD - Final	Landscape Plan	Andy's Home Design	17/11/2023
DA105	MOD - Final	Excavation & Fill Plan	Andy's Home Design	17/11/2023
DA201	MOD - Final	Ground Floor Plan	Andy's Home Design	17/11/2023
DA202	MOD - Final	First Floor Plan	Andy's Home Design	17/11/2023
DA203	MOD - Final	Roof Plan	Andy's Home Design	17/11/2023
DA300	MOD - Final	Sections 2 - Rear Yard	Andy's Home Design	17/11/2023
DA400	MOD - Final	North Elevation	Andy's Home Design	17/11/2023
DA401	MOD - Final	East Elevation	Andy's Home Design	17/11/2023
DA402	MOD - Final	Demolition South Elevation	Andy's Home Design	17/11/2023
DA403	MOD - Final	South Elevation	Andy's Home Design	17/11/2023
DA404	MOD - Final	West Elevation	Andy's Home Design	17/11/2023

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 C12, C21, G7 and I1 as follows:**

**Porous Paving**

- C12. The proposed paving within the rear and side setback of the site must be paved to allow stormwater infiltration to the substrate. The applicable paving to be constructed to allow stormwater infiltration is shown in the approved Sections 2 - Rear Yard Plan, DA300 Rev MOD - Final.

Plans and specifications which comply 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 improve the capacity of the site to absorb water runoff)

**BASIX Certificate**

- C21. 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. \_02 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**

- G7. The landscaping shown in the approved landscape plan numbered DA104 Rev MOD - Final prepared by Andy's Home Design, dated 17 November 2023, and received by Council on 17 November 2023, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

**Maintenance of Approved Landscaping**

- I1. The owner of the premises at 80 Young Street, Cremorne is to maintain the landscaping approved by this consent generally in accordance with drawing number DA104, Rev MOD - Final dated, 17/11/2023.

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 maintenance of the amenity, solar access and views of adjoining properties)

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**Reasons for Approval:**

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 is considered to be acceptable.

The modification seeks to retain the existing rock outcrop and prevent excavation and potential harm to the adjoining *Melaleuca quinquenervia* which is a positive outcome and the modification application provides greater clarity in terms of the method of construction for the paving in the rear setback and its ability to allow water infiltration.

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.

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**How community views were taken into account:**

The subject application was notified to adjoining properties and Parks Precinct inviting comment between 15 December 2023 and 26 January 2024. There were no submissions following notification of the modification application.

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The conditions attached to the original consent for Development Application No. **110/22** by endorsed date of **31 October 2022** 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**

**13 March 2024**

DATE

*Thomas Holman*

Signature on behalf of consent authority  
THOMAS HOLMAN  
**SENIOR ASSESSMENT OFFICER**