



Ms Jennifer Alcock and MS Loray Dudley  
C/- Vaughan Milligan Devt Consulting Pty Ltd  
PO Box 49  
NEWPORT NSW 2106

D247/23  
MAB (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 247/23/2 - APPROVAL**

**Development Consent Number:** 247/23

**Land to which this applies:** 6 Earle Street, Cremorne  
Lot No.: 18, DP: 78947

**Applicant:** Vaughan Milligan

**Proposal:** To modify a consent for alterations and additions to an existing dwelling house including a single storey rear addition, construction of a carport and associating landscaping

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. **247/23** and registered in Council's records as Application No. **247/23/2** relating to the land described as **6 Earle Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **19 October 2023**, has been determined in the following manner:

- A. To delete conditions C1 and G13.**
- B. To amend Condition A1 as follows:**

**Development in Accordance with Plans/Documentation**

A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Plan No	Title	Prepared	Date
0-03 A	Site Plan - Demolition	JDA Studio Architects	28 July 2023
1-01 A	Ground Level Plan - Demolition		28 July 2023
1-02 A	Level 1 Plan - Demolition		28 July 2023
1-03 A	Roof Plan - Demolition		28 July 2023

0-04 A C	Site Plan - Proposed		<del>28 July 2023</del> <u>26 March 2024</u>
1-04 A C	Ground Floor Plan - Proposed		<del>28 July 2023</del> <u>26 March 2024</u>
1-05 A	Level 1 Plan - Proposed		28 July 2023
1-06-A-C	Roof Plan - Proposed		<del>28 July 2023</del> <u>26 March 2024</u>
2-01-A-C	South Elevations - Streetfront - Demolition and Proposed		<del>28 July 2023</del> <u>26 March 2024</u>
2-02 A	South Elevations - Demolition and Proposed		28 July 2023
2-03 A	East Elevations - Demolition and Proposed		28 July 2023
2-04 A	North Elevations - Demolition and Proposed		28 July 2023
2-05 A C	West Elevations - Demolition and Proposed		<del>28 July 2023</del> <u>26 March 2024</u>
2-06 A	Sections A-A and B-B		28 July 2023
4-01 A	Materials Schedule		28 July 2023
LCP-01 A	Landscape Concept Plan - Front	Fifth Season Landscapes	17 July 2023
LCP-02 A	Landscape Concept Plan - Back		17 July 2023
PLT-01 A	Landscape Planting Plan - Front		17 July 2023
PLT-02 A	Landscape Planting Plan - Back		17 July 2023

**C. To amend Condition C25 as follows:**

**Amendments to the Landscape Plan (and Associated Plans)**

C25 The landscape plan must be amended as follows to provide an appropriate landscape setting:

- (a) The stormwater plan shall be amended such that proposed SW and associated works do not traverse the TPZ of any protected trees.
- (b) 1 x *Callistemon* 'Hannah Ray' (100L) shall be planted in the council verge outside 6 Earle Street to the east of the proposed new vehicle crossing.
- (c) The landscape plan to incorporate the landscaped area in the front south-western corner of the site indicated in approved Ground Level Plan 1-04 Rev C dated 25 March 2024. The vegetation within this landscaped area is to include a *camellia sasanqua* (Jennifer Susan) greater than 2m in height at time of planting with mature height of 3m in line with the carport roof.

An amended landscape plan complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier 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)

**D. To amend Condition G10 as follows:**

**Landscaping**

G10. The landscaping shown in the approved landscape plans numbered LCP-01, LCP-02 PLT-01 and PLT-02 prepared by Fifth Season Landscapes, dated 17 July 2023, (as amended pursuant to **Condition C25**) must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure work is carried out as assessed)

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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 Environmental Planning and Assessment 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.

Having regard to the provisions of section 4.55(2) 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 application was notified in accordance with Council's Community Engagement Protocol from 15 December 2023 to 26 January 2024. No submissions were received at Council. Nevertheless, the potential impact to adjoining properties has been considered.

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The conditions attached to the original consent for Development Application No. **247/23** by endorsed date of **19 October 2023** still apply.

**ADVISINGS**

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

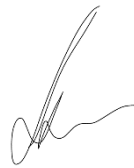
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 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**

**1 May 2024**

DATE



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