



Mr Peter Rush  
Seeman Rush Architects  
100 Juliett Street  
MARRICKVILLE NSW 2204

D292/20  
AB7 (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 292/20/2 - APPROVAL**

<b>Development Consent Number:</b>	<b>292/20</b>
<b>Land to which this applies:</b>	4 Bertha Road, Cremorne Lot No.: A, DP: 350785
<b>Applicant:</b>	Peter Rush, Seeman Rush Architects
<b>Proposal:</b>	S4.55(1A) modification application to correct the wording in the Notice of Determination, and minor alterations to the internal floor plan of the lower ground level

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. **292/20** and registered in Council's records as Application No. **292/20/2** relating to the land described as **4 Bertha Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **24 February 2021**, has been determined in the following manner:

**1. The front page (Page 1) of the Notice of Determination is amended as follows:**

<b>Proposal:</b>	Alterations and additions to an existing dwelling with new windows and doors, an internal reconfiguration, new lower-level habitable rooms and associated works.
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<b>Reason for approval:</b>	The proposed development seeks consent for various alterations and additions to a substantial heritage listed dwelling. The impacts of the development upon the heritage significance of the site have been assessed and found to be generally acceptable on the basis that the majority of the works will not be visible from the public domain and will maintain a sympathetic scale in relation to the existing dwelling. The removal of some original internal fabric is also acceptable on the basis that the original fabric on site involves less significant materials subject to appropriate conditions.
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	<p>The proposed three Lower Ground Level openings on the front (southern) façade, however, are not considered to be acceptable on the basis that the works will detract from the highly intact and characteristic Inter-war Spanish Mission style façade and will be highly visible from the street. These openings are recommended to be deleted from the plans by condition.</p> <p>Subject to the satisfaction of the above conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the heritage significance of the site and streetscape will be maintained. The proposal will also not result in any unreasonable impacts to the amenity of adjoining properties such as impacts to views, overshadowing or loss of privacy.</p> <p>The proposed development is considered reasonable in the circumstances and therefore the application is recommended for approval.</p>
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**2. Condition A1 is amended as follows:**

**Development in Accordance with Plans (S4.55 Amendments)**

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council’s approval stamp, except where amended by the following conditions of this consent.

Plan No.	Title	Drawn by	Rev.	Dated	Received
A01	Roof/Site Plan	Seeman Rush Architects	B	30/11/2020	3/12/2020
A02	Lower-Level Floor Plan	Seeman Rush Architects	B	30/11/2020	3/12/2020
A03	Ground Floor Plan	Seeman Rush Architects	B	30/11/2020	3/12/2020
A04	Elevations	Seeman Rush Architects	B	30/11/2020	3/12/2020
A05	Elevations/Sections	Seeman Rush Architects	B	30/11/2020	3/12/2020
A06	Sections	Seeman Rush Architects	B	30/11/2020	3/12/2020
DEMO 01	Demolition - Lower Floor Plan	Seeman Rush Architects	B	30/11/2020	3/12/2020
DEMO 02	Demolition - Ground Floor Plan	Seeman Rush Architects	B	30/11/2020	3/12/2020
A07	External Materials & Finishes	Seeman Rush Architects	B	30/11/2020	3/12/2020

Except as modified as such on the following drawings for DA 292/20/2:

Drwg No.	Rev.	Title	Drawn By	Date	Received
A01	F	Roof/Site Plan	Seeman Rush Architects	9/04/2024	23/05/2024
A02	F	Lower-level Floor Plan	Seeman Rush Architects	9/04/2024	23/05/2024
A03	F	Ground Floor Plan	Seeman Rush Architects	9/04/2024	23/05/2024
A04	F	Elevations	Seeman Rush Architects	9/04/2024	23/05/2024
A05	F	Elevations/Sections	Seeman Rush Architects	9/04/2024	23/05/2024
A06	F	Sections	Seeman Rush Architects	9/04/2024	23/05/2024
A07	F	External Materials & Finishes	Seeman Rush Architects	9/04/2024	23/05/2024

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

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**Reasons for Approval:**

The development application has been assessed against the relevant planning instruments and policies, in particular the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013, and generally found to be satisfactory.

There would be no additional impact upon neighbouring amenity or the character of the surrounding area, given that the proposed modifications are for internal works that are modest in form and scale and are sympathetic to the existing heritage item, with no significant loss of original internal or external fabric.

The proposed modification to the notice of determination to clarify the wording of the consent and the type of development approved, being for alterations and additions to an existing single dwelling, would not materially change the level of compliance with any environmental planning instrument, NSLEP 2013 or NSDCP 2013.

Nonetheless, officers consider that there would be no impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains fully consistent with the objectives of the Cremorne Conservation Area, the R2 Low Density Residential Zone, and the reasons for granting consent originally.

The proposed changes were found to be acceptable in the site circumstances and it is recommended that the subject Section 4.55(1A) application be approved.

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

The proposed modifications did not require notification due to their minor nature. Nevertheless, it is considered that the proposal would provide improved amenity for the residents without causing any unreasonable impacts to the streetscape, the heritage significance of the building or conservation area, and/or upon the amenity of adjoining properties.

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The conditions attached to the original consent for Development Application No. **292/20** by endorsed date of **24 February 2021** still apply.

**ADVISINGS**

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

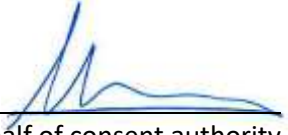
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) 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**

**7 June 2024**

\_\_\_\_\_  
DATE

  
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Signature on behalf of consent authority  
ANDREW BEVERIDGE  
**SENIOR ASSESSMENT OFFICER**