

Development Consent No. 205/15

Section 4.55 Application

Applicant's Name

Mosman Finance No.5 Pty Ltd

Land to which this applies

26 Cremorne Road, Cremorne Point
Lot No.: 1, DP: 926849

Proposal

Modification of consent for alterations and additions to residential flat buildings – amendment of condition C9.

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. **205/15** and registered in Council's records as Application No. **205/15/3** relating to the land described as **26 Cremorne Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 1 June 2016, has been determined in the following manner:

1. To modify condition C9 as follows:

Driveway Crossing and associated works permit

- C9. Prior to the issue of any Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works **permit** to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a '*Vehicular Access Application*' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable permit issue. The civil design drawings must detail **the following infrastructure construction requirements of Council in relation to the consent:**

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (**gutter bridges not permitted**) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The existing layback crossing on Cremorne Lane must be reconstructed as upright kerb, gutter, new layback and concrete footpath.
- c) The length of vehicular layback shall be **17.0m** (including the wings).
- d) The vehicular layback must be set square to the kerb.
- e) The crossing (between the layback and the property boundary) shall be placed perpendicularly to the front boundary and on a single straight grade of approximately 4.5%, falling to the back of the layback.
- f) The road reserve must be constructed in accordance with Council's current documents:
 - Infrastructure Specification
 - Public Domain Style Manual and Design Codes
 - Vehicular Access Application Guidelines and Specification.
- g) A minimum of **1.0 m** clearance between the western boundary and excavation for the car lift must be provided.
- ~~h) The car lift door must be wide enough (minimum of 5.0 m) to allow exit of a B99 vehicle with sufficient clearance from legally parked vehicles in the laneway opposite the car lift.~~
- ~~i) A separate pathway for pedestrians to access the residence must be created~~
- ~~j) Increase visibility for both pedestrians and drivers~~
- k) Ensure young children are unable to gain unsupervised access to the vehicle area (access door to be too heavy for small children and door handle placed at a minimum height of 1500mm above floor level).
- l) Consider the use of appropriately placed outdoor mirrors.
- m) Alignment levels at the boundary have an important impact on the proposed levels for new driveway. No work on internal parking area should start until first obtaining boundary alignment levels from Council (after inspection of formwork for new driveway). Council has the authority to remove any unauthorised works at the cost of the developer.
- n) The Certifying Authority must ensure that the internal property levels at boundary matches Council's approved boundary levels.
- o) The boundary footpath levels must match the existing levels and shall not be altered unless agreed to by Council.
- p) The gutter levels and road shoulder levels on Cremorne Lane must stay unchanged.
- q) The kerb, gutter and 600 mm road shoulder wide- strip (rectangular), adjacent to all new layback and gutter works, must be reconstructed, to ensure uniformity in the road reserve.
- r) The footpath on Cremorne Lane must be reconstructed for a minimum of 18.0m from western boundary and is to be transitioned for at least 2.0m on the left hand side of the crossing (facing the property from Cremorne Lane) to ensure uniformity on the footpath. The footpath at the point of stormwater drainage discharge must be reconstructed and new footpath must match existing levels.

- s) Any twisting of driveway access to ensure vehicles do not scrape must occur entirely within the subject property.
- t) All inspection openings, utility services must be adjusted to match the approved footpath and driveway levels and location.
- u) The design detail has to be provided with **vehicular access application** and must include sections along centre-line and extremities of the crossing at a scale of 1:25@A3. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- v) A longitudinal section along the gutter line of Cremorne Lane at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels.
- w) A longitudinal section along the footpath property boundary at a scale of 1:50 is required, including FFL levels along the centre-line of each access point to the building.
- x) The sections shall show the calculated clearance to the underside of any overhead structure.
- y) All details of internal parking.
- z) A swept path analysis is required demonstrating that an B85 vehicle can manoeuvre in and out of the car lift in accordance with AS 2890.1: 2004 "Off Street Parking", providing sufficient clearance from parked vehicle across the road.

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit.

The Certifying Authority issuing the Construction Certificate must ensure that the permit (*'Vehicular Access Application'*) issued by Council is obtained prior to its issue, is referenced on and accompanies the issued Construction Certificate.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Reason for approval

The s.4.55 application has been assessed against all applicable environmental planning instruments and Council policies and was found to be generally satisfactory, including in relation to the North Sydney LEP 2013 and North Sydney DCP 2013, subject to conditions of consent.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979, the application is considered to be satisfactory as detailed in the assessment report.

How were community views taken into account in making the decision

The proposal was not required to be notified and advertised in accordance with Part A, Section 4 *Notification of Applications* of North Sydney DCP 2013 and no submissions were received.

The conditions attached to the original consent for Development Application No. 205/15 by endorsed date of 1 June 2016 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (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 Certifying Authority 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 & 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 & Assessment Act.

DATE

Signature on behalf of consent authority
GEORGE YOUHANNA
EXECUTIVE PLANNER