

## Development Consent No. 271/15

### Section 4.55 Application

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#### Applicant's Name

James Elliot

#### Land to which this applies

134 Holt Avenue, Cremorne  
Lot No.: 17, Sec.: 4, DP: 4764

#### Proposal

Section 4.55(2) application to modify DA 271/15 with regards to alterations and additions to the dwellings including addition of lightwells to the basement, changes to the windows, footprint and internal layout

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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. **271/15** and registered in Council's records as Application No. **271/15/4** relating to the land described as **134 Holt Avenue, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 December 2015, has been determined in the following manner:

- 1. Modify Conditions A4, C1, C27 and C31 as follows:*

#### Development in Accordance with Plans

- A4. 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 those amendments indicated in colour on the plans that formed part of application No. 271/15/2:

Drawing number	Revision	Title	Drawn by	Dated
S9601	-	Site plan	Connor + Soloman Architects	September 2016
S9602	-	Basement plan	Connor + Soloman Architects	September 2016

S9603	-	Ground floor plan	Connor + Soloman Architects	September 2016
S9604	-	First floor plan	Connor + Soloman Architects	September 2016
S9605	-	Second floor plan	Connor + Soloman Architects	September 2016
S9606	-	Roof plan	Connor + Soloman Architects	September 2016
S9607	-	North-Front building elevation	Connor + Soloman Architects	September 2016
S9608	-	South-Rear building elevation	Connor + Soloman Architects	September 2016
S9609	-	East – Side building elevation	Connor + Soloman Architects	September 2016
S9610	-	West – Side building elevation	Connor + Soloman Architects	September 2016
S9611	B	North courtyard elevation	Connor + Soloman Architects	September 2016
S9612	B	South courtyard elevation	Connor + Soloman Architects	September 2016
S9613	B	Section BB – Front building	Connor + Soloman Architects	September 2016
S9614	B	Section AA – Rear building	Connor + Soloman Architects	September 2016
S9615	B	Section CC	Connor + Soloman Architects	September 2016
S9616	B	Section DD	Connor + Soloman Architects	September 2016

Or as amended by the clouded areas indicated on those plans that form part of application No. 271/15/4:

<b>Drawing number</b>	<b>Revision</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>
S96-2 01	A	Site plan	Connor + Soloman Architects	October 2018
S96-2 02	A	Basement plan	Connor + Soloman Architects	October 2018
S96-2 03	A	Ground floor plan	Connor + Soloman Architects	October 2018
S96-2 04	A	First floor plan	Connor + Soloman Architects	October 2018
S96-2 05	A	Second floor plan	Connor + Soloman Architects	October 2018
S96-2 06	A	Roof plan	Connor + Soloman Architects	October 2018
S96-2 07	A	North-Front building elevation	Connor + Soloman Architects	October 2018
S96-2 08	A	South-Rear building elevation	Connor + Soloman Architects	October 2018
S96-2 09	A	East – Side building elevation	Connor + Soloman Architects	October 2018
S96-2 10	A	West – Side building elevation	Connor + Soloman Architects	October 2018

S96-2 11	A	North courtyard elevation	Connor + Soloman Architects	October 2018
S96-2 12	A	South courtyard elevation	Connor + Soloman Architects	October 2018
S96-2 13	A	Section AA – Rear building	Connor + Soloman Architects	October 2018
S96-2 14	A	Section BB – Front building	Connor + Soloman Architects	October 2018
S96-2 15	A	Section CC	Connor + Soloman Architects	October 2018
S96-2 16	A	Section DD	Connor + Soloman Architects	October 2018
S96-2 17	A	Finishes Schedule	Connor + Soloman Architects	October 2018

Except as amended by other conditions of this consent.

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

### **Photovoltaic Panels**

C1. The photovoltaic panels as required by the BASIX Certificate that forms part of this consent must be laid flat on the roof and must not be visible from the public domain. 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 minimise visual impacts on the public domain)

### **Privacy**

C27. The following privacy devices are to be provided:

- a) All external horizontal louvers, indicated on the plans in Condition A1 and Condition A4 must be fixed and angled down at a 45 degree angle.
- b) A 1.6m high privacy screen must be attached to the eastern side of the second floor balcony (dwelling 3).
- c) The eastern first floor ensuite and bathroom windows (dwelling 3) must be fitted with obscure glass.
- d) The first floor southern bedroom 1 window (dwelling 2) must have a minimum sill height of 1800mm above finished floor level.
- e) The first floor southern bedroom 2 window (dwelling 1) must have a minimum sill height of 1800mm above finished floor level.
- f) The internal courtyard walls must have a minimum height of 2 metres above finished ground level.

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 an adequate level of privacy is provided to dwellings within the development and with the adjoining properties located at No.132 and 136 Holt Avenue.

### **BASIX Certificate**

C31. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate, as amended by this modified consent, 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)

### **Reason for approval**

The amended plans do not seek a change to the approved building height and have included fixed louvres to the new side windows to ensure a reasonable level of amenity is maintained to adjoining properties.

The proposed excavation for the light wells is unlikely to cause unreasonable damage to adjoining properties.

The proposal remains compliant with the site coverage and private open space controls in NSDCP 2013.

Consequently, the Section 4.55(2) application is considered to be reasonable in the circumstances and it is recommended for **approval** subject to modified conditions of consent.

### **How were community views taken into account in making the decision**

The issues raised in the submissions were considered in the assessment of the application and, where appropriate, conditions were imposed to maintain privacy for the adjoining properties.

The conditions attached to the original consent for Development Application No. 271/15 by endorsed date of 7 December 2015 still apply.

## ADVISINGS

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

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
TEAM LEADER (ASSESSMENTS)