

Development Consent No. 290/17

Section 4.55 Application

Applicant's Name

Corben Architects

Land to which this applies

21 Cremorne Road, Cremorne Point
Lot No.: 30, SEC.: G, DP: 4389

Proposal

Section 4.55(2) modifications to D290/17 for alterations and additions to an existing detached dwelling including external materials and fenestration changes, repositioning of the Cremorne Road pedestrian entrance and modifications to the southern boundary/retaining walls.

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. **290/17** and registered in Council's records as Application No. **290/17/2** relating to the land described as **21 Cremorne Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 February 2018, has been determined in the following manner:

1. To modify Conditions A1, C17 and G9 as follows:

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the following drawings numbered DA07 Rev B, DA10 Rev B, dated 22/8/17, DA02 Rev C, DA03 Rev C, DA04 Rev C, DA05 Rev C, DA06 Rev C, DA08 Rev C, DA09a Rev C, DA09b Rev C, DA11 Rev C, all drawn by Corben Architects, and received by Council on 1 November 2017, and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D290/17/2:

Plan No.	Rev	Date	Drawn by	Received
DA01	D	9/7/18	Corben Architects	18 July 2018
DA02	D	9/7/18	Corben Architects	18 July 2018
DA03	D	9/7/18	Corben Architects	18 July 2018

DA04	D	9/7/18	Corben Architects	18 July 2018
DA05	D	9/7/18	Corben Architects	18 July 2018
DA06	D	9/7/18	Corben Architects	18 July 2018
DA07	D	9/7/18	Corben Architects	18 July 2018
DA08	D	9/7/18	Corben Architects	18 July 2018
DA09	D	9/7/18	Corben Architects	18 July 2018

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

BASIX Commitments

C17. 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 No. A324835 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)

Compliance with Certain Conditions

G9. Prior to the issue of any Occupation Certificate, Conditions C1, C2, C18, C19, C20, C21 and G10 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

2. *To insert new conditions nos. A4, C18, C19, C20, C21, E22 and G10 as follows:*

Terms of Consent (D290/17/2)

A4. Approval is granted for the following works as shown on drawings numbered DA01 Rev D, DA02 Rev D, DA03 Rev D, DA04 Rev D, DA05 Rev D, DA06 Rev D, DA07 Rev D, DA08 Rev D, DA09 Rev D, all dated 9/7/18, drawn by Corben Architects, and received by Council on 18 July 2018 and as modified by Conditions C18, C19, C20, C21 and G10:

- (a) Fenestration changes as shown on the approved plans including infilling of various existing windows / modifications to window panel patterns,
 - (b) Extension of the external wall to the kitchen on the northern elevation;
 - (c) Repositioning of the pedestrian entrances from Cremorne Road;
 - (d) Design changes to the pedestrian stair access from Cremorne Reserve;
- and

- (e) Modifications to the southern property boundary wall with new boundary fencing and the retaining walls/planters to Cremorne Reserve.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear)

Retention of Timber Shingles

- C18. Timber shingles on all elevations are to be retained. All new shingles are to match the existing and are not to be replaced with metal cladding.

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 retain characteristic detailing in the heritage conservation area)

Modifications to Windows

- C19. The following windows are to be retained on the exterior and be covered over internally only with plasterboard sheeting. All fixings and finishes must allow for the changes to be reversible in the future with the original window frame and glazing retained intact:

- Southern elevation - Level 2 window to New Entry
- Southern elevation – Level 3 window to new Bedroom 3
- Northern elevation – Level 3 window to existing Bedroom 2

The following windows are to be retained as existing:

- Western elevation – Level 3 window (W3.01) to existing Bedroom 4
- Western elevation – Level 3 window to new Bedroom 3
- Southern elevation – 2 x Level 2 windows (W2.13 & W2.14) located either side of chimney to existing formal living room

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 maintain the characteristic building element and the heritage significance of existing building within the conservation area)

Pedestrian Entry

- C20. The design of the pedestrian entry from Cremorne Road must be modified to have a pitched roof and tiled to match that of the main dwelling.

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 be sympathetic to the hipped and gabled roofs that characterise the streetscape)

Modifications to the Retaining Walls and Fencing along Property Boundaries

- C21. The retaining walls and fencing as modified by **D290/17/2** must be modified as follows:

- (a) The maximum height of the retaining wall along the southern property boundary and on the eastern elevation must not exceed RL 17.560; and
- (b) The fencing along southern property boundary must have a maximum height of 1m with open construction (minimum 75% transparency) similar to steel palisade fencing.

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 maintain the stepped profile of the retaining wall, to reduce bulk and scale and to retain the open garden setting through properties fronting Cremorne Reserve)

No Work on Public Open Space

- E22. No work can be undertaken within adjoining public lands (ie. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any construction works relating to the proposed new retaining walls adjacent to Council's Cremorne Reserve.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Planting adjacent to the Eastern Property Boundary

G10. On completion of works and prior to the issue of an Occupation Certificate, shrub plantings at 45L pot size are to be planted between the proposed retaining walls and the eastern property boundary to Council's Cremorne Reserve to the satisfaction of Council's Landscaping Officer.

(Reason: To retain the garden plantings in Cremorne Reserve)

Reason for approval

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

The proposal modifications, amended by conditions of consent, would have no adverse impacts in terms of height, bulk and scale of the approved development.

The proposed modifications, as amended by conditions of consent, would not cause material impacts on the amenity of the adjoining properties in terms of the loss of significant views, solar access and privacy.

The proposed modifications, as amended by conditions of consent, would have no adverse impacts on the significance and character of the conservation area.

The issues raised in the submissions received have been addressed including the imposition of appropriate conditions.

In summary, the proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved with modifications to the relevant conditions.

How were community views taken into account in making the decision

The adjoining properties and the Cremorne Point Precinct were notified about the proposed development for the period between 8 and 22 August 2018. The notification resulted in two (2) submissions. The issues raised in the submission have been addressed as part of the assessment of the application.

The conditions attached to the original consent for Development Application No. 290/17 by endorsed date of 7 February 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robin Tse**. 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
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)