

Original signed by: Robyn Pearson Dated: 18/12/2018

Development Consent No. 237/18

Section 4.55 Application

Applicant's Name

Ocean King Enterprises Pty Ltd
11 Bennett Street
CREMORNE NSW 2090

Land to which this applies

11 Bennett Street, Cremorne
Lot No. 1, DP 1110849
Lot B, DP 350785

Proposal

Section 4.55 (1) modification to DA 237/18 for correction to property title description on notice of determination.

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. **237/18** and registered in Council's records as Application No. **237/18/2** relating to the land described as **11 Bennett Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 November 2018, has been determined in the following manner:

1. To include both land parcel numbers, being Lot 1 in DP 1110849 and Lot B in DP 350785, within the property description on the notice of determination.

Reason for approval

The proposed modification to DA 237/18 for a correction to property title description on notice of determination to include both land parcels which comprise the subject site is acceptable, and would not alter the nature of the previously approved development. The proposed modification would not change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013. Furthermore, there would be no impacts on the residential amenity of the subject site and the adjoining properties as well as the character of the locality.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55 (1) application be approved.

How were community views taken into account in making the decision

Notifications of the subject application was waived in accordance with Section 4.5.1 in Part A of North Sydney DCP 2013, as the approved development is not altered by this application, which proposes only to correct an error on the notice of determination.

The conditions attached to the original consent for Development Application No. 237/18 by endorsed date of 13 November 2018 still apply.

ADVISINGS

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