

Development Consent No. 428/17/2

Section 4.55 Application

Applicant's Name

BH Designs – Building Design & Drafting Services

Land to which this applies

19 Bannerman Street, Cremorne Point
Lot No.: 1, DP: 88334

Proposal

Section 4.55(2) modifications to DA428/17 including amendments to windows and doors, an alteration to the street entry, and alterations to the first floor bathroom and bedroom.

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. **428/17** and registered in Council's records as Application No. **428/17/2** relating to the land described as **19 Bannerman Street, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 March 2017, has been determined in the following manner:

- To modify the development consent (D428/17) and modify condition A1 to include the revised plans:**

Development in Accordance with Plans (S 4.55 Amendments)

A1. The development shall be carried out in accordance with the following drawings:

Drawing Number	Issue	Title	Drawn by	Dated
1605/DA-01	A	Site Analysis Plan	BH Designs	November 2017
1605/DA-02	A	Existing and Demolition Floor Plan	BH Designs	November 2017
1605/DA-03	A	Existing and Demolition Level 1 Floor Plan	BH Designs	November 2017
1605/DA-04	A	Proposed Floor Plan	BH Designs	November 2017

1605/DA-05	A	Proposed Level 1 Floor Plan	BH Designs	November 2017
1605/DA-06	A	Proposed Roof Plan	BH Designs	November 2017
1605/DA-07	B	Proposed North South and Street Elevations	BH Designs	February 2018
1605/DA-08	B	Proposed East and West Elevations	BH Designs	February 2018
1605/DA-09	B	Proposed Section A-A	BH Designs	February 2018
7916	-	Site Survey	Adam Clerke Surveyors Pty Ltd	16/06/2016

and endorsed with Council's approval stamp, except as modified by the coloured areas on the new drawings for D428/17/2 as listed below:

Drawing Number	Issue	Title	Drawn by	Dated
1605/CC-02	A	Existing and Demolition Floor Plan	BH Designs	November 2018
1605/CC-03	A	Existing and Demolition Level 1 Floor Plan	BH Designs	November 2018
1605/CC-04	A	Proposed Floor Plan	BH Designs	November 2018
1605/CC-05	A	Proposed Level 1 Floor Plan	BH Designs	November 2018
1605/CC-06	A	Proposed Roof Plan	BH Designs	November 2018
1605/CC-07	A	Proposed North South and Street Elevations	BH Designs	November 2018
1605/CC-08	A	Proposed East and West Elevations	BH Designs	November 2018
1605/CC-09	A	Proposed Section A-A	BH Designs	November 2018

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

2. To insert new condition A4 as follows:

Terms of Consent

- A4. Approval is granted for the following works as shown in colour on the drawings listed in Condition A1 above:
- i. Amendments to windows and doors.
 - ii. Alterations to the pedestrian entry to the property.
 - iii. Alterations to the first floor bathroom and bedroom including an increase to the size of the bedroom and amendments to the roof form in the location of the bedroom.
 - iv. Internal alterations.

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)

2. **To modify conditions C15 and C16 as follows:**

BASIX Certificate

C15. 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. A301125_02 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)

Provision of Street Tree

C16. Once Council’s road verge has been reinstated in accordance with Condition C10, one street tree shall be planted in accordance with the following schedule.

Tree	Location	Minimum Pot Size
<i>Lophostemon confertus</i> (Brush Box)	Reinstated grassed verge central to the reinstated driveway crossing	75 Litre

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 maintain the visual amenity of the street and to provide shade to the footpath).

Reason for approval

The proposed modifications including various amendments to windows and doors, an alteration to the pedestrian street entry, and alterations to the first floor bathroom and bedroom, satisfy the provisions of Section 4.55(2) in that the proposed development is substantially the same as what was approved under DA 428/17 and the proposed modifications will not materially alter the use or the form of the development as originally approved.

The proposed modifications do 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. There would be no undue impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains consistent with the objectives of the R2 (Low Density Residential) Zone, and the reasons for granting consent originally.

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 and new conditions as required.

How were community views taken into account in making the decision

The proposal was notified and advertised in accordance with Part A, Section 4 *Notification of Applications* of North Sydney DCP 2013. No submissions were received. Nonetheless, Amenity impacts have been considered in the assessment of his application and are reasonable.

The conditions attached to the original consent for Development Application No. 428/17 by endorsed date of 7 March 2017 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)