

Development Consent No. 159/18

Section 4.55 Application

Applicant's Name

Emma Jane Press, C/- Annabelle Chapman Architect Pty Ltd

Land to which this applies

22 East Crescent Street, McMahons Point
Lot No.: 21, DP: 6002

Proposal

A Section 4.55 (2) Application to modify DA159/18 to allow various alterations and additions to a dwelling including increase building height and increase in the size of a window.

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. **159/18** and registered in Council's records as Application No. **159/18/2** relating to the land described as **22 East Crescent Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 14 August 2018, has been determined in the following manner:

Delete Condition C18 'Reduction in Parapet Height'

Modify Conditions A1 and G7 to read as follows:

Development in Accordance with Plans/documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Title	Drawn by	Received
003	C	Site Analysis and Proposed Site Plan	Annabelle Chapman Architect	12/7/18
101	C	Proposed Lower Ground Floor Plan	Annabelle Chapman Architect	11/7/18
102	C	Proposed Ground Floor Plan	Annabelle Chapman Architect	11/7/18
103	C	Proposed First Floor Plan	Annabelle Chapman Architect	11/7/18

104	C	Proposed Second Floor Plan	Annabelle Chapman Architect	11/7/18
105	C	Proposed Roof Plan	Annabelle Chapman Architect	11/7/18
201	C	Proposed North Elevation	Annabelle Chapman Architect	11/7/18
202	C	Proposed South Elevation	Annabelle Chapman Architect	11/7/18
203	C	Proposed East Elevation (East Crescent View)	Annabelle Chapman Architect	11/7/18
204	C	Proposed West Elevation (Middle Street View)	Annabelle Chapman Architect	11/7/18
301	C	Proposed Section A-A	Annabelle Chapman Architect	11/7/18
302	C	Proposed Section B-B	Annabelle Chapman Architect	11/7/18

Except as amended by the following plans that form part of Section 4.55 No. 159/18/2:

Dwg No.	Revision/ Issue	Date	Title	Drawn by	Received
104	D	23/11/18	Proposed Second Floor Plan	Annabelle Chapman Architect	23/11/18
105	D	23/11/18	Proposed Roof Plan	Annabelle Chapman Architect	23/11/18
201	E	20/02/19	Proposed North Elevation	Annabelle Chapman Architect	20/02/19
303	B	22/01/19	Proposed Section	Annabelle Chapman Architect	22/01/19

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

Height

G7. Upon completion of the works and prior to the issue of any Occupation Certificate the RL of the development measured at the roof parapet of the Second Floor level must be surveyed and certified by an appropriately qualified and practising surveyor as compliant with the maximum approved **RL 49.77**. This survey and certification must be submitted to the Certifying Authority with the application for an Occupation Certificate and a copy provided to Council (if it is not the Certifying Authority).

(Reason: To ensure compliance with the terms of this development consent)

Reason for approval

The proposed raising of the parapet an additional 200mm from that approved in Condition C18 of DA159/18 will not impact existing solar access to the main internal living rooms or principal private open spaces of the apartments within the building at No. 16-20 East Crescent Street. The impact will only be to the bedrooms/study and bathrooms of these apartments.

The impact to these bathroom and bedroom/study windows is considered acceptable as the proposed 200mm increase to the parapet height will remain compliant with the building height control. Condition C18 of DA159/18 can therefore be deleted and Condition G7 of DA159/18 amended.

The enlarged northern rumpus room window (W01, Level 2) will have obscure glass to a height of 1.6m above FFL ensuring reasonable visual privacy is maintained with the adjoining property.

How were community views taken into account in making the decision

The S4.55 application was notified to the Lavender Bay Precinct Committee and surrounding properties between 7 December 2018 and 11 January 2019. One (1) submission was received against the application. The issues raised in the submissions were considered and addressed in the delegated report.

The conditions attached to the original consent for Development Application No. 159/18 by endorsed date of 14 August 2018 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.

DATE

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)