

Development Consent No. 242/18

Section 4.55 Application

Applicant's Name

Ian Sercombe

Land to which this applies

21 East Crescent Street, McMahons Point
Lot No.: 0, SP: 1976

Proposal

Modify DA 242/18 to amend the structural design of the approved retaining wall.

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. **242/18** and registered in Council's records as Application No. **242/18/2** relating to the land described as **21 East Crescent Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 17 September 2018, has been determined in the following manner:

1. To insert and amend the following conditions:

Development in accordance with Plans

A1. Development in Accordance with Plans (S4.55 Amendments)

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 the modifications shown in colour on:

- (a) Drawings numbered C01, C02 and S04, rev. 1 dated 22/10/18, drawn by Dennis Bunt Consulting Engineers, and received by Council on 21 December 2018; and
- (b) Drawings numbered A2.1, A2.2 and A3.1, revision Section 96 dated 20/12/18, prepared by Ian Sercombe Architect, and received by Council on 21 December 2018.

except as amended by the following conditions and this consent.

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

C6. Stormwater Disposal

Stormwater runoff generated by the approved development must be conveyed by gravity to the proposed infiltration trench. No other stormwater from development upon the site may be directed to the infiltration trench. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the BCA and current plumbing standards and guidelines. 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 ensure appropriate provision for disposal and stormwater management arising from the development)

Reason for approval

The development application has been assessed against the *North Sydney Local Environmental Plan 2013* and the *North Sydney Development Control Plan 2013*.

The existing toilet block, vegetation and surrounding buildings will highly obscure the proposed retaining wall from the harbour. The application proposes to manage stormwater through provision of an infiltration trench.

The proposed wall will not have any detrimental impact on the use, character, scenic quality or health of foreshores and waterways. The wall will not affect site, neighbouring or public domain sun, views, privacy or amenity.

How were community views taken into account in making the decision

The owners of adjoining properties and the local community precinct were notified of the proposed development for a 14-day period in accordance with NSDCP 2013. The notification resulted in no submissions.

Existing consent conditions address any potential, unreasonable adverse impacts to the locality and ensure the protection of the public interest.

The conditions attached to the original consent for Development Application No. 242/18 by endorsed date of 17 September 2018 still apply.

ADVISINGS

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