

Kerry Paki
PO Box 1871
NEUTRAL BAY NSW 2089

D428/17
LK (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 428/17/3 – APPROVAL**

Development Consent Number: 428/17

Land to which this applies: 19 Bannermann Street, Cremorne Point
Lot No.: 1, DP: 88334

Applicant: Kerry Paki

Proposal: Section 4.55(1A) modification to DA428/17 to
demolish and rebuild garage 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. **428/17** and registered in Council's records as Application No. **428/17/3** relating to the land described as **19 Bannermann Street, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 March 2018, 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

and endorsed with Council's approval stamp, except as modified by the red areas on the new drawings for D428/17/3 as listed below:

Drawing Number	Issue	Title	Drawn by	Dated
1605/CC-02	A	Existing and Demolition Floor Plan	BH Designs	March 2018
1605/DA-04	A	Proposed Floor 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

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

2. To add new condition A5 as follows:

Terms of Consent

A5. Approval is granted for the following works as shown in red on the new drawings for D428/17/3 listed in Condition A1 above:

- i. Demolition of the existing garage walls and the construction of new like for like garage walls in strict accordance with the size, height and materials indicated in the original approval (DA 428/17).

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)

Reason for approval:

The proposed modification to demolish and rebuild the garage walls like for like satisfies the provisions of Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 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(1A) application be approved.

How community views were taken into account:

Notification of the subject application was waived in accordance with Section 4.5.1 in Part A of North Sydney DCP 2013. Nonetheless, amenity impacts have been considered in the assessment of this application, and it is noted that a condition was attached to the original approval (**Condition G3**) which aims to prevent any damage to adjoining properties.

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

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER ASSESSMENTS