

George Tawaf  
6 Lower Brooks Street  
LINLEY POINT NSW 2066

D197/16  
RP (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 197/16/2 – APPROVAL**

---

**Development Consent Number:** 197/16/2

---

**Land to which this applies:** 151 Young Street, Cremorne  
Lot No.: A, DP: 356907

---

**Applicant:** George Tawaf

---

**Proposal:** Construction of an attached dual occupancy: Sec. 4.55 application involving modifications to windows, doors and fenestration.

---

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. **197/16** and registered in Council's records as Application No. **197/16/2** relating to the land described as **151 Young Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 10 October 2018, has been determined in the following manner: -

**1. Condition A1 is modified to identify the revised plans**

**Development in Accordance with Plans**

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.

| Drawing Number | Revision | Title              | Drawn by         | Dated   |
|----------------|----------|--------------------|------------------|---------|
| DA101          | C        | Site Analysis Plan | BKA Architecture | 2/09/16 |
| DA110          | C        | Basement           | BKA Architecture | 2/09/16 |
| DA111          | C        | Ground             | BKA Architecture | 2/09/16 |

|       |   |                    |                  |         |
|-------|---|--------------------|------------------|---------|
| DA112 | C | Level 1            | BKA Architecture | 2/09/16 |
| DA113 | C | Roof               | BKA Architecture | 2/09/16 |
| DA200 | C | Western Elevation  | BKA Architecture | 2/09/16 |
| DA201 | D | Eastern Elevation  | BKA Architecture | 2/09/16 |
| DA202 | C | Northern Elevation | BKA Architecture | 2/09/16 |
| DA203 | C | Southern Elevation | BKA Architecture | 2/09/16 |
| DA300 | C | Section A          | BKA Architecture | 2/09/16 |

**As amended by the following plans**

| <b>Drawing Number</b> | <b>Title</b>       | <b>Drawn by</b>  | <b>Dated</b> |
|-----------------------|--------------------|------------------|--------------|
| 109 – Rev B           | Basement           | BKA Architecture | 24/10/18     |
| 110 – Rev B           | Basement           | BKA Architecture | 24/10/18     |
| 111 – Rev B           | Ground Floor       | BKA Architecture | 24/10/18     |
| 112 – Rev B           | Level 1            | BKA Architecture | 24/10/18     |
| 200 – Rev B           | Western Elevation  | BKA Architecture | 24/10/18     |
| 201 – Rev D           | Eastern Elevation  | BKA Architecture | 7/3/19       |
| 202 – Rev B           | Northern Elevation | BKA Architecture | 24/10/18     |
| 203 – Rev B           | Southern Elevation | BKA Architecture | 24/10/18     |
| 300 – Rev B           | Section A          | BKA Architecture | 24/10/18     |

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

**2. Condition C21 is amended requiring the air conditioning units to be encased to minimise noise nuisance**

**Noise from Air conditioning units**

C21. The air conditioning units for dwellings 1 (one) and 2 (two) must be encased to minimise noise nuisance emanating from the A/C units also to achieve compliance with C22 concerned with noise levels for the use of the air conditioning units in residential areas. The noise enclosure should not increase floor area and/or generate additional site coverage or cause a loss of landscaping at the subject site.

Plans must be submitted to the satisfaction of the PCA to minimise noise nuisance emanating from the subject site.

(Reason: To maintain residential amenity for the residents at Nos. 149 & 153 Young Street)

3. *Condition C24 is modified to include additional privacy measures to minimise overlooking into adjoining properties as follows:*

**Privacy**

C24. The following privacy devices are to be provided:

- a) Fixed metal privacy screens shall be attached to the south western side of the rear terrace (unit 1) with a minimum height of 1.8 above the terrace floor level
- b) A privacy screen must also be provided along the eastern side of the timber staircase to minimise overlooking into No. 153 Young Street.
- c) Privacy screens (1.8m min height) must also be provided on the northern perimeters of the rear terraces for unit 2 at ground and basement levels.
- d) Screen plantings must be provided (5 metres high at maturity) along southern perimeter of the terraces at basement level as shown in red on the approved plans

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 adequate privacy is provided to adjoining properties – 149 & 153 Young Street)

4. *Condition C27 is modified to include the revised BASIX Certificate No. 724107M\_02*

**BASIX Certificate**

C27. 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 the BASIX Certificate No. 724107M\_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 buildings 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)

5. *An additional condition is imposed to ensure that the encased air conditioning units comply with the specified noise levels*

**Noise Certification**

G15. Prior to issue of any Occupation Certificate, a certificate from an appropriate qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent here in particular condition C22.

(Reason: To ensure acoustic privacy for adjoining properties)

---

**Reason for approval:**

The s.455 application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and generally found to be satisfactory.

The height of the building has not changed from the original approval so there would be no unreasonable overshadowing, loss of privacy (visual/aural), view loss and/or unreasonable bulk and scale.

The proposal is compliant with the dual occupancy controls in NSLEP 2013 and the site coverage, landscape area and unbuilt upon area controls in section 1.5.5 and 1.5.6 in NSDCP 2013.

With the recommended conditions of consent requiring additional privacy screens and screen plantings (Min 5m at maturity), there would be no unreasonable impacts upon privacy given that the fall of the land does allow for some natural overlooking between properties.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and is therefore recommended for approval subject to conditions of consent.

---

**How community views were taken into account:**

On 1 November 2018, the subject section 4.55 application was notified to adjoining properties and the Brightmore Precinct inviting comment between 9 and 23 November 2018. Three submissions were received from one property that were addressed within the delegated report. Nonetheless, conditions have been imposed to address noise nuisance and privacy.

---

The conditions attached to the original consent for Development Application No. 197/16 by endorsed date of 10 October 2018 still apply.

**ADVISINGS**

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