

Sally Zylberberg
5 Bogota Avenue
CREMORNE POINT NSW 2090

D137/18
LH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 137/18/3 – APPROVAL**

Development Consent Number: 137/18/3

Land to which this applies: 5 Bogota Avenue, Cremorne Point
Lot No.: 4, DP: 87088

Applicant: Sally Zylberberg

Proposal: To modify a Development Consent DA137/18 to allow the removal of a canopy tree.

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. **137/18** and registered in Council's records as Application No. **137/18/3** relating to the land described as **5 Bogota Avenue, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 September 2018, has been determined in the following manner: -

1. Modify Condition G8 as follows:

Landscaping

G8. On completion of works and prior to the issue of an Occupation Certificate, landscaping shall be undertaken as shown in the approved Landscape Plan numbered DA01 Sheet A28 Revision A prepared by Sanctum Design dated 10/5/2019 and received by Council on 14 May 2019 and as amended by providing planting in accordance with the following schedule:

Schedule

Tree Species	Location	Pot Size
Glochidion ferdinandii	Approximate location of removed Cupressus (front garden, eastern boundary)	100L
Backhousia citriodora	Adjacent to driveway as shown in landscape plan	100L

The installation of such trees, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure compliance with landscaping requirements)

2. Add new condition I3 as follows:

Maintenance of Approved Landscaping

I3 The owner of the premises at 5 Bogota Avenue is to maintain the landscaping approved by this consent generally in accordance with drawing number A28, Revision A, dated 10/5/19 as modified by conditions G8.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

(Reason: To ensure compliance with landscaping requirements)

Reason for approval:

The s.4.55(1a) application has been assessed against all applicable environmental planning instruments and Council policies and was found to be generally satisfactory, including in relation to the North Sydney LEP 2013 and North Sydney DCP 2013, subject to conditions of consent.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979, the application is considered to be satisfactory as detailed in the assessment report.

How community views were taken into account:

The proposal was not required to be notified and advertised in accordance with Part A, Section 4 *Notification of Applications* of North Sydney DCP 2013 and no submissions were received.

The conditions attached to the original consent for Development Application No. 137/18 by endorsed date of 5 September 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
**LARA HUCKSTEPP
EXECUTIVE PLANNER**