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D438/17
RF3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 438/17/2 – APPROVAL**

Development Consent Number: 438/17/2

Land to which this applies: 1 Wonga Road, Cremorne
Lot No.: 39, DP: 31762

Applicant: Madeleine Scarfe Architect

Proposal: Section 4.55(2) modifications to Development Consent 438/17 for alterations and additions to the existing dwelling including a new first floor addition. Modifications consist of revised timber balustrading; revised windows on the approved first floor and enlarged windows and new ceiling on the existing ground floor.

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. **438/17** and registered in Council's records as Application No. **438/17/2** relating to the land described as **1 Wonga Road, Cremorne**.

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: -

1. To modify Conditions A1 and C13 as follows:

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the following drawings dated 20 March 2019 - DA00 Rev B, DA03 Rev B, DA04 Rev B, DA05 Rev B, DA08 Rev B; and the following drawings dated 26 March 2019 - DA06 Rev C, and DA07 Rev C; all drawn by Madeline Scarfe Architect, received by Council on 26 March 2019.

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

BASIX Certificate

C13. 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 BASIX Certificate No. A301651_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 building 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)

The proposed modifications satisfy the requirements of Section 4.55(2) in that the proposal is considered to be substantially the same development as that which was originally approved by Council for the following reasons:

Reason for approval:

- The proposed modifications are minor and within the approved building footprint and envelope and would have no material impacts on the amenity of the neighboring properties because the height, bulk, scale and general external treatment of the approved development remains unchanged.
- The proposed modifications would not detract from the approved dwelling’s architectural integrity, compatibly with its context or increase its visual prominence.

In summary, the proposal was found to be acceptable in the circumstances of the site and is recommended that the subject Section 4.55(2) application be approved with amendments to the relevant conditions.

How community views were taken into account:

The application was referred to surrounding property owners for any comment between 2 April to 16 April 2019. No submissions were received.

The conditions attached to the original consent for Development Application No. 438/17 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 **Robert Fewster**. 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
ROBIN TSE
ACTING TEAM LEADER ASSESSMENTS