

Local Approvals
522/1 Burroway Road
WENTWORTH POINT NSW 2127

D148/19
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 148/19/2 – APPROVAL**

Development Consent Number: 148/19/2

Land to which this applies: 8 Richmond Avenue, Cremorne
Lot No.: 1, DP: 942195

Applicant: Local Approvals

Proposal: Section 4.55(2) modifications to DA 148/19 for the deletion of conditions C10(b) and C13 pertaining to pool pumps and filters.

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. **148/19** and registered in Council's records as Application No. **148/19/2** relating to the land described as **8 Richmond Avenue, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 17 September 2019, has been determined in the following manner: -

- 1. That Condition C10(b) for Swimming Pool Pumps on Residential Premises be retained in Development Consent 148/19 to ensure the maintenance of residential amenity.*
 - 2. The deletion of Condition C13 requiring the encasement of pool filtering equipment with a soundproof cover a minimum six (6) metres from any habitable room in a dwelling on a neighbouring property.*
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Reason for approval:

This development application seeks a section 4.55 modification for Development Consent 148/19 at 8 Richmond Avenue, which would not alter the use or form of the development as approved under DA148/19, nor would it have any impacts on the neighbourhood character or streetscape of the Montague Road Conservation Area.

Council's Team Leader Environmental Health has objected to the proposed deletion of Condition C10(b) on the basis that, while its application in the consent may not be strictly needed in this case to ensure that noise impacts from the pool are minimised, its presence in Development Consent 148/19 will ensure that Council is able to enforce compliance with noise controls should a complaint be made in the future. As a consequence, it is recommended that this section of the modification be retained.

The deletion of Condition C13 (Pool filter) is considered to be acceptable on merit on the basis that the requirements set out in this condition, including to encase the pool filtering equipment with a soundproof cover, is not considered to be strictly applicable in this situation, with the 'swim-spa' as approved having its filter equipment integrated into the prefabricated structure. It is also considered that any noise impacts from this swim-spa will be minimised by the sandstone cliff face, brick boundary fence and deck, and will continue to be controlled through Condition C10 remaining unmodified as per the recommendation of Council's Team Leader Environmental Health.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1) application to delete Condition C13 be **approved**, while retaining Condition C10(b).

How community views were taken into account:

Notification was not required under Council's notification policy pursuant to Section 4 in NSDCP 2013.

The conditions attached to the original consent for Development Application No. 148/19 by endorsed date of 17 September 2019 still apply.

ADVISINGS

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