

James Michael Elliott
7/9 Myrtle Street
NORTH SYDNEY NSW 2060

D271/15
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 271/15/6 – APPROVAL**

Development Consent Number: 271/15/6

Land to which this applies: 134 Holt Avenue, Cremorne
Lot No.: 17, DP: 4764

Applicant: James Michael Elliott

Proposal: Section 4.55(1A) application to modify DA 271/15 with regards to alterations and additions to the dwellings including changing skylight positions, retrospective approval of modified front fence, and widening of a western elevation window.

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. **271/15** and registered in Council's records as Application No. **271/15/6** relating to the land described as **134 Holt Avenue, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 December 2015, has been determined in the following manner: -

Add Conditions A4 and A5 as follows:

Development in Accordance with Plans

A4. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by those amendments indicated in colour on the plans that formed part of application No. 271/15/2, No. 271/15/4 and No. 271/15/5.

as amended by the clouded areas indicated on those part that form part of application No. 271/15/6:

Drawing No.	Title	Drawn by	Dated	Received
01	Site Plan	Connor Solomon Architects	01/04/2020	06/04/2020
06	Roof Plan	Connor Solomon Architects	01/04/2020	06/04/2020

07	North Elevation	Connor Solomon Architects	01/04/2020	06/04/2020
10	West Elevation	Connor Solomon Architects	01/04/2020	06/04/2020

Except as amended by other conditions of this consent.

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

Terms of the Consent

A5. Approval is granted for the following works:

- Changes to the pitch of the previously approved skylights to 17 degrees (Plan 4.55-3 06)
- Widening the window on the western elevation (Plan 4.55-3 10), and
- Changes to the front fence and gates (Plan 4.55-3 07)

No approval is given or implied in this consent for other the building works not the subject of this section 4.55 application (either internal and external) within the subject property.

(Reason: To clarify the terms of consent)

Reason for approval:

The proposed modification has been assessed against Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (as amended) and found to be generally acceptable in the site circumstances.

The proposed widened opaque window of the ground-floor western elevation is a minor change that will retain a reasonable level of amenity for residents and adjoining properties, with the screening provided by boundary fencing and its opaque character.

The proposed 17-degree pitch of the previously approved skylights are unlikely to cause unreasonable impacts upon adjoining properties and will not be highly visible from the public domain.

While the height of the modified fence, for which retrospective approval is sought, is in non-compliance with Council's controls, it is considered that the fence, which comprises transparent metal and timber railings and gates beneath sandstone blockwork and between sandstone piers, achieves the objectives of the front fences clause in NSDCP 2013 and are acceptable on merit. The modified fence is more than 50% transparent material so the natural surveillance and visibility of the garden settings will remain visible from the public domain, in addition to enhancing the visual and acoustic privacy of the dwellings facing Holt Avenue.

Furthermore, the articulated design of the fence stepping down the natural fall of the site also serves to minimise the visual dominance and visual impact of the development and the fence itself.

The proposal remains compliant with the height control in NSLEP 2013 and the site coverage and private open space controls in NSDCP 2013.

Consequently, the Section 4.55(1A) application is considered to be reasonable in the circumstances and is therefore approved, subject to modified conditions of consent.

How community views were taken into account:

Community views have been considered as the development application was notified and Council received no submissions. Nevertheless, council has stipulated appropriate conditions of consent in the original consent for DA271/15, to minimise impacts of the development while in construction and operation.

The conditions attached to the original consent for Development Application No. 271/15 by endorsed date of 2 December 2015 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