

Original signed by: Robyn Pearson Dated: 27/10/2020

Katherine Mary Henderson
U1, 16-18 Park Avenue
MOSMAN NSW 2088

D158/18
MS3(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 158/18/3 – APPROVAL**

Development Consent Number: 158/18/3

Land to which this applies: 74 Ellalong Road, Cremorne
Lot No.: 7, DP: 10291

Applicant: Katherine Mary Henderson

Proposal: Section 4.55 modification proposing amendments to the landscape plan.

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. **158/18** and registered in Council's records as Application No. **158/18/3** relating to the land described as **74 Ellalong Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 27 August 2018, has been determined in the following manner: -

1. Amend Condition E37 as follows:

Tree removal and replacement plantings

E37. The *Cinnamomum camphora* (18x10m) located in the northern corner of the site, may be removed subject to the following conditions:

- Removal of the stump shall be carried out via hand excavation, under the supervision of an (AQ5) qualified arborist. No roots belonging to the *Liquidambar styraciflua* planted on the adjacent boundary of 76 Ellalong Road greater than 40mm in diameter, shall be cut or damaged in any way.
- All root material from the *Cinnamomum camphora* shall be removed from the soil prior to replacement planting. The void left by the removed root mass shall be filled with an open friable premium garden mix, with the suitable addition of nitrogenous fertiliser to combat any nitrogen drawdown caused by remnants of sawdust, grindings or woody material retained.

- ~~(Delete) 4 x 100l (min) *Xcupressus Leylandii* ‘Leightons Green’ shall be planted in the northern corner of the site, along the fence line, in line with the existing planting.~~
- **11 x 150l pot size *Elaeocarpus eumundi* ‘Eumundi Quandong’ shall be planted with even spacing along the north western (rear) boundary as indicated on the landscape plan “Planting Plan RC” prepared by Harrisons Landscaping, dated 21 September 2020 and received by Council 28 September 2020.**
- **20 x 150mm pot size *Lomandra Longifolia* ‘Tanilka’ shall be planted along the north eastern (side) boundary as indicated on the landscape plan “Planting Plan RC” prepared by Harrisons Landscaping, dated 21 September 2020 and received by Council 28 September 2020.**
- ~~(DELETE) The hedge shown to be planted along the fence line on the north eastern boundary adjacent to the pool in the determined plans, shall be planted with *Xcupressus Leylandii* ‘Leightons Green’ (75l) planted at minimum 900mm centres, and shall extend in a south easterly direction for at least the width of the pool.~~
- An additional *Lagerstroemia indica* (75l) shall be planted within the rear setback of 74 Ellalong Road.

(Reason: To ensure suitable replanting’s to replace the tree to be removed)

The modification application meets the requirements of section 4.55(1A) and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1) of the Act, which have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

Reason for approval:

The proposed modifications are considered substantially the same development and of minimal environmental impact. The proposed landscaping would retain reasonable levels of privacy for surrounding dwellings and the subject dwelling and contribute to the overall landscaped character and canopy of the area.

The proposed modification is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

Where relevant, previous objectors were consulted to advise of the proposed modifications and ensure that the proposed modifications continued to address previous concerns.

The conditions attached to the original consent for Development Application No. 158/18 by endorsed date of 27 August 2018 still apply.

ADVISINGS

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