

Timothy Ward
5 Brightmore Street
CREMORNE NSW 2090

D362/18
MS3 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 362/18/2 – APPROVAL

Development Consent Number: 362/18/2

Land to which this applies: 5 Brightmore Street, Cremorne
Lot No.: 1, DP: 966809

Applicant: Timothy Ward

Proposal: Section 4.55(1A) modification – regarding conditions of consent to allow the staging of the approved works.

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. **362/18** and registered in Council's records as Application No. **362/18/2** relating to the land described as **5 Brightmore Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 July 2019, has been determined in the following manner: -

1. To modify conditions G2, G7 and G8 as follows:

Pool Access

- G2. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the requirements of the applicable Australian Standard. The pool must not be filled with water or be allowed to collect stormwater until the installation of the child resistant barrier is completed. Certification from an appropriately qualified person confirming compliance with these requirements must be provided prior to the issuing of **the relevant** Occupation Certificate.

(Reason: To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act)

Landscaping

G7. The landscaping shown in the approved landscape drawing no. LS02 dated 7/11/2018 Sheet 3 of 4 Landscape plan Rear Garden pool plan must be completed prior to the issue of **the relevant** Occupation Certificate.

(Reason: To ensure compliance)

Certification of Tree Condition

G8. Prior to the issue of the Occupation Certificate **related to the construction of the swimming pool**, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) addressed in the Arborist Report as required by condition *C11 – Arborist Report* of this consent.

The report must detail the condition and health of the nominated tree(s) upon completion of the works, and shall certify that the tree(s) has/have not been significantly damaged during the works on the site, and has/have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

Reason for approval:

The matters for consideration as outlined in section 4.15(1) and section 4.55(1A) of the Act have been satisfied. The proposed modification is considered to be of minimal environmental impact as it relates to the staging of the approved works only. The amended conditions of consent would allow separate occupation certificates to be issued. This would allow the approved works to the dwelling to be undertaken and occupied prior to the construction of the swimming pool being undertaken or completed. A final occupation certificate would be issued for the construction of the swimming pool and associated works.

How community views were taken into account:

The proposed modification is considered to be of minimal environmental impact and would not adversely impact the neighbour properties. The application was therefore not notified in accordance with Council's Community Engagement Protocol.

The conditions attached to the original consent for Development Application No. 362/18 by endorsed date of 3 July 2019 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)**