

Simon Agar  
C- Minto Planning Services Pty Ltd  
PO Box 424  
BEROWRA NSW 2081

D135/20  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED**  
**SECTION 4.55 MODIFICATION 135/20/2 – APPROVAL**

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**Development Consent Number:** 135/20/2

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**Land to which this applies:** 39 Young Street, Cremorne  
Lot No.: 1, DP: 86973

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**Applicant:** Simon Agar  
C/- Minto Planning Services

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**Proposal:** Section 4.55(1A) modification to review conditions as imposed upon the consent notice.

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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. **135/20** and registered in Council's records as Application No. **135/20/2** relating to the land described as **39 Young Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 27 November 2020, has been determined in the following manner: -

1. *To delete Condition AA1 Amendment to Plans.*
2. *To insert Condition C20 Privacy into the consent.*

**Privacy**

C20 The following privacy devices are to be provided:

- a. Window W2.03 (shown on DA-03) along the northern elevation of the dining room is to be fixed and obscure to a height of 1.5 m above the internal finished floor level.
- b. Window W3.05 (shown on DA-04) along the northern elevation of the walk in robe is to be fixed along the northern elevation of the dining room is to be fixed and obscure to a height of 1.5 m above the internal finished floor level.

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 an adequate level of privacy is provided to adjoining property located at Nos. 37 Young Street, 52 Belgrave Street, Cremorne)

**3. *That the reasons for the grant of consent be amended to read as follows:***

***Reason for Deferred Commencement:***

*The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible in the zone, meets the zone objectives and all relevant provisions of NSLEP 2013. The development is also generally in accordance with the controls and objectives of the NSDCP 2013.*

*The proposed alterations and additions have a split-level form which responds to the topography of the site. The built form also reduces to a single storey form within the south eastern corner to ensure that reasonable levels of solar access are maintained to the adjoining dwellings to the south.*

*The subject site is affected by overland flow as the rear setback area forms a natural gully. There is also significant stormwater infrastructure that traverses the rear of the site. The proposed development provides a freeboard level and is to be constructed on piers at the rear not to affect the overland flow path and cause any additional runoff or flooding to the adjoining properties.*

*The proposed amendments generally improved the level of compliance with key controls including the height of buildings development standard and maximum site coverage control. The attached site specific and standard conditions adequately address the concerns raised in the submissions, particularly where the development does not comply with key development controls.*

*Overall, the impacts of the proposed additions are assessed as reasonable, subject to compliance with conditions. The development would reflect an appropriate built form and scale that has adequate regard for site conditions and the context of the surrounding area.*

**4. *That the “deferred commencement” Condition AA1 Deferred Commencement Condition and deferred commencement terms have been satisfied in accordance Section 95 of the Environmental Planning and Assessment Regulations 2000. Council confirms that the consent becomes operational and the plans as referenced in Condition A1 shall be endorsed with Council’s Approval Stamp. Development Consent DA135/2020 is now operable from the date of this letter, namely 10 May 2021.***

***In accordance with the provisions of Section 4.53(6) of the Environmental Planning and Assessment Act 1979 the consent shall lapse on 10 May 2026.***

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**How community views were taken into account:**

The owners of adjoining properties and the local community precinct committee were notified of the amended development for a 14-day period in accordance with Council’s Community Engagement Protocol. These concerns have been considered during the course of the assessment.

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The application is recommended for approval subject to amended conditions and noting the substantial amendments included in the revised plans.

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The conditions attached to the original consent for Development Application No. 135/20 by endorsed date of 27 November 2020 still apply.

**ADVISINGS**

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

**Endorsed for and on behalf of North Sydney Council**

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DATE

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER (ASSESSMENTS)**