

Original signed by **Robyn Pearson** on **4/5/2021**

Date determined: 4/5/2021

Date operates: 4/5/2021

Date lapses: 16/4/2024

Belinda Walter
16 Wonga Road
CREMORNE NSW 2090

D418/18
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 418/18/2 - APPROVAL**

Development Consent Number: 418/2018/2

Land to which this applies: 69 Pine Street East, Cammeray
Lot No: 19, DP: 8680

Applicant: Belinda Walter

Proposal: S4.55 Modification to approved alterations and additions to an existing dwelling house, carport and associated landscaping.

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. **418/18** and registered in Council's records as Application No. **418/18/2** relating to the land described as **69 Pine Street East, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 26 April 2019 has been determined in the following manner: -

1. The following conditions are to be imposed:

A. Conditions that Identify Approved Plans

Development in Accordance with Plans (S4.55 Amendments)

A5 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 the modifications shown in colour on the plans that form part of DA418/2018:

Plan No	Issue	Title	Dated	Prepared	Received
A-001 DA	4.55	Site Plan	05/03/2021	BW	24/03/2021
A-101 DA	4.55	Lower Ground Floor	05/03/2021	BW	24/03/2021
A-102 DA	4.55 B	Garden Level Plan	27/04/2021	BW	28/04/2021
A-201 DA	4.55 B	North Elevation	27/04/2021	BW	28/04/2021
A-203 DA	4.55 B	East Elevation	27/04/2021	BW	28/04/2021
A-202 DA	4.55	West Elevation	05/03/2021	BW	24/03/2021

except as amended by the following conditions and this consent.

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

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated).*

Swimming Pool Pumps on Residential Premises

C21 The Certifying Authority must be satisfied that the swimming pool pump to be installed on the premises must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00 am and after 8.00 pm on any Sunday or Public Holiday; or
 - (ii) before 7.00 am or after 8.00 pm on any other day
- (b) cause an LAeq(15 min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

Details demonstrating compliance with the requirements of this condition must be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

(Reason: To maintain residential amenity)

Pool Access

C22 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 barrier is to conform to the requirements of the applicable Australian Standard. 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 the safety of children and make applicant aware of the need to comply with applicable pool fencing legislation)

Swimming Pool Water to Sewer

C23 The swimming pool, including overflow water, must be drained to the sewer. The consent of Sydney Water to dispose of wastewater must be obtained prior to the issue of any Construction Certificate. Plans and specifications complying with this condition and any conditions/ requirements of Sydney Water 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 comply with this condition and any conditions/ requirements imposed by Sydney Water.

(Reason: Water from a swimming pool is classified as wastewater and cannot be legally disposed of into the stormwater system)

Pool Filter

C24 The pool filtering equipment must be encased by a soundproof cover and must be located six (6) metres from any habitable room in a dwelling on a neighbouring property. 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 noise generated by equipment does not result in offensive noise)

G. Prior to the Issue of an Occupation Certificate

Pool Access

G7 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 any 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)

Pool Safety Requirements

G8 A notice must be displayed in a prominent position in the immediate vicinity of the pool at all times showing:

a) Appropriate instructions of artificial resuscitation methods.

b) A warning stating:

(i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", and

(ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and

- (iii) “KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES”,

Details demonstrating compliance are to be provided with any Occupation Certificate issued for the pool.

This notice must be kept in a legible condition and at the poolside.

(Reason: To ensure an adequate level of safety for young pool users)

I. On-Going / Operational Conditions

Pool Filter

I2 The swimming pool pump installed at the premises must not operate so as to:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
- (j) before 8.00 am and after 8.00 pm on any Sunday or Public Holiday; or
- (ii) before 7.00 am or after 8.00 pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To ensure noise generated by equipment does not result in offensive noise)

Single Occupancy

I2 Nothing in this consent authorises the use of the premises other than for a single occupancy.

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

2. Following Conditions are to be amended:

BASIX Certificate

C20 Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. (A333263_03) dated **24 March 2021** for the development are fulfilled. 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 the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Reason for approval:

The development, as proposed to be modified, is considered substantially the same development and has regard to the reasons for approval of the original application. The modification has been assessed against the matters for consideration as outlined in section 4.15(1) of the Act which have been satisfied. The proposed development is permissible, and the proposed modifications meet the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

The proposed modifications would improve the functionality and amenity of the dwelling and would not result in any additional adverse impacts to the amenity of the surrounding properties. The proposed modifications are consistent with the character of the existing dwelling and the surrounding area.

The application to modify D418/2018 is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The development application was notified in accordance with Council's Community Engagement Protocol from 9 April 2021 until 23 April 2021, however no submissions were received. Nevertheless, the potential impacts of the proposed modifications on the amenity of the surrounding properties has been considered. Conditions were imposed on the original consent that are considered to minimise the potential construction impacts to the surrounding residential area.

The conditions attached to the original consent for Development Application No. 418/18 by endorsed date of 26 April 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 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

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)