

Jennifer Stening  
PO Box 3359  
BELLEVUE HILL NSW 2023

D44/09  
HS1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED**  
**SECTION 4.55 MODIFICATION 44/09/4 – APPROVAL**

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**Development Consent Number:** 44/09/4

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**Land to which this applies:** 140 Blues Point Road, McMahons Point  
Lot No.: 9, DP: 3713

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**Applicant:** Jennifer Stening

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**Proposal:** Section 4.55 (2) modifications to an approved alterations and additions to a two storey detached dwelling including changes to the approved addition and a new roof terrace.

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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. **44/09** and registered in Council's records as Application No. **44/09/4** relating to the land described as **140 Blues Point Road, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 10 July 2009, has been determined in the following manner: -

- 1. To modify the development consent (D44/09) and modify conditions A1, A4 and A5 as follows:*

**Development in Accordance with Plans**

- A1. Drawings numbered DA1 and DA2, dated 30 January 2009, drawn by Stening Architects, and received by Council on 18 February 2009, drawings numbered DA10 and DA11, dated 20 April 2009, drawn by Stening Architects, and received by Council on 29 April 2009, drawings numbered DA4a and DA5a, dated 22 April 2009, drawn by Stening Architects, and received by Council on 29 April 2009 and drawing numbered DA3a, dated 29 May 2009, drawn by Stening Architects, and received by Council on 1 June 2009.

As amended by the following plans and additional conditions:

| <b>Plan No.</b> | <b>Issue</b> | <b>Dated</b> | <b>Title</b>               | <b>Drawn by</b>    | <b>Received</b> |
|-----------------|--------------|--------------|----------------------------|--------------------|-----------------|
| DA09            | A            | 2.12.2020    | Height Drawing             | Stening Architects | 2.2.2021        |
| DA09            | A            | 2.12.2020    | Height Drawing 2           | Stening Architects | 2.2.2021        |
| DA04            | A            | 2.12.2020    | East and West Elevations   | Stening Architects | 2.2.2021        |
| DA05            | A            | 2.12.2020    | North and South Elevations | Stening Architects | 2.2.2021        |
| DA06            | A            | 2.12.2020    | Sections                   | Stening Architects | 2.2.2021        |
| DA01            | A            | 2.12.2020    | Ground Floor Plan          | Stening Architects | 2.2.2021        |
| DA02            | A            | 2.12.2020    | First Floor Plan           | Stening Architects | 2.2.2021        |
| DA03            | A            | 2.12.2020    | Roof Plan                  | Stening Architects | 2.2.2021        |
| DA07            | A            | 2.12.2020    | Landscape Plan             | Stening Architects | 2.2.2021        |

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

### **External Finishes and Materials**

A4. The colour and type of all external materials shall be modified in drawings numbered DA01 to DA09, to be in accordance with the architectural plans, dated 2 December 2020, prepared by Stening Architects and received at Council on 2 February 2021.

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

### **Terms of Consent (D44/09/4)**

A5. Approval is granted for the following works as shown on drawings numbered DA01 to DA09, dated 2 December 2020, drawn by Stening Architects, and received by Council on 2 February 2021:

#### **External Works:**

- Retain footprint of kitchen – extends to northern boundary wall.
- Western gable ended element is narrowed by moving southwest wall of kitchen and master ensuite slightly south and increasing distance of master ensuite northern wall from boundary.
- Bay window extended to first floor at southern elevation.
- Shallow Juliet balcony to new master bedroom, changed fenestration to new master bedroom – privacy shutters as previously approved for master ensuite (previously master bedroom).
- New window to southeast corner bedroom 3 – southern façade.
- Relocated – central – roof terrace.
- Changes to roof form to suite new planning of first floor level.
- New privacy screens to northern boundary wall.
- Fenestration to master ensuite changes – two narrow double hung windows with shutters become a single double hung window with shutters and obscure glass to bottom sash.
- New west facing window to shower room with obscure glass to bottom sash.
- Additional skylight to linen room.
- Set back approved carport from Princes Place and replace approved sliding gate and fence with bi-folding gates.
- Relocate garbage storage to carport and add new south-facing windows to Garden/Guest room.
- Install photovoltaic panels for solar hot water.

**Internal Works:**

- Retain internal staircase in original position.
- Modified layout to powder room and laundry ground floor plus door to adjacent study. Door from hall to laundry moved to accommodate steps up to kitchen.
- First floor linen room and shower room with door to bedroom 2 in lieu of stair.
- Master bedroom and ensuite swap positions.
- New stair to relocated roof terrace above existing stair.

No approval is given or implied in this consent for any planting, including potted plants, fixed or movable awnings or sunshades, umbrellas or screening to the roof terrace.

(Reason: To ensure the terms of the consent are clear)

**2. Delete Condition C17 as shown below:**

**Design Modifications (D44/09/2)**

~~C17. The following design modifications must be applied to the approved development:~~

- ~~(a) Roof Terrace The design of the proposed roof terrace must be modified to provide 500mm wide bench and/or bench seating facing to the north along the southern edge of the terrace as marked in red on the approved plans to ensure visual privacy protection for the adjoining properties to the south at No.138 Blues Point Road.~~
- ~~(b) Glazing to the first floor ensuite/bathroom windows on the southern elevation shall be frosted or equivalent to protect the visual privacy of the adjoining property at No.138 Blues Point Road.~~

~~The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the requirement of this condition.~~

~~(Reason: To ensure appropriate treatments for windows and amenity protection for an adjoining property)~~

**3. Insert new Condition C18 as shown below:**

**Heritage Design Amendments**

C18. The following design amendments are to be retained below:

The proposed opening with cavity sliding doors between family room and dining room are to be deleted. The proposed opening with cavity sliding doors between the sitting room and master bedroom on the first floor are also to be deleted.

That details of the proposed new windows in the south east first floor bedroom on the southern elevation shall be submitted to Council for approval prior to the issue of any CC. The proposed details, although do not need to be exact, shall match the exiting windows to that room.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the requirement of this condition.

(Reason: To retain as much of existing heritage fabric)

The conditions attached to the original consent for Development Application No. 44/09 by endorsed date of 10 July 2009 still apply.

### **ADVISINGS**

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

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