

Douglas and Margaret Whitson
30 Macpherson Street
CREMORNE NSW 2090

D153/20
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 153/20/2 - APPROVAL**

Development Consent Number: 153/20

Land to which this applies: 30 Macpherson Street, Cremorne
Lot No.: A, DP: 441850

Applicant: Margaret Whitson and Douglas Whitson

Proposal: To modify Consent No 153/20 with regard to lowering of floor level

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. **153/20/2** and registered in Council's records as Application No. **153/20/2** relating to the land described as 30 Macpherson Street, Cremorne.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 18 September 2020, has been determined in the following manner:-

1. To modify Condition A1 as follows: -

Development in Accordance with Plans (S4.55 Amendments)

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp:-

No.	Title	Drawn by	Dated	Issue	Received
1C	Site Plan/Site Analysis Plan	Thorsette Pty Ltd	September 2020	C	17/09/2020
4F	Proposed Floor Plan	Thorsette Pty Ltd	September 2020	F	17/09/2020
5D	Proposed North/West Elevation	Thorsette Pty Ltd	September 2020	D	17/09/2020
6C	Proposed Part South Elevation/ Section A-A	Thorsette Pty Ltd	September 2020	C	17/09/2020
7E	Stormwater Concept Plan/Proposed Roof Plan	Thorsette Pty Ltd	September 2020	E	17/09/2020

Except as modified as such on the following drawings for DA153/20/2:

No.	Title	Drawn by	Dated	Issue	Received
1D	Site Plan/Site Analysis Plan	Thorsette Pty Ltd	May 2021	D	21/05/2021
4G	Proposed Floor Plan	Thorsette Pty Ltd	May 2021	G	21/05/2021
5E	Proposed North/West Elevation	Thorsette Pty Ltd	May 2021	E	21/05/2021
6D	Proposed Part South Elevation/ Section A-A	Thorsette Pty Ltd	May 2021	D	21/05/2021
8D	Landscape Plan	Thorsette Pty Ltd	May 2021	D	21/05/2021

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

Reason for Approval:

The proposed modifications satisfy the provisions of Section 4.55 (2) in that the proposed development remains substantially the same as what was approved by DA244/20. The proposed modifications will not alter the use of the development as originally approved and amenity impacts remain acceptable. The proposed modifications would also not change the level of compliance with the relevant development standards and controls as contained in NSLEP 2013 and NSDCP 2013.

As the proposed modifications are to lower the previously approved rear extensions closer to existing ground level, there would be no additional unreasonable heritage or environmental impact in terms of overshadowing, view loss, privacy loss, foreshore and/or bulk and scale. The proposed works will provide additional resident amenity without negatively impacting the neighbourhood character, and the Montague Road Conservation Area. The proposal also remains consistent with the objectives of the R2 (Low Density Residential) Zone and the original reasons for granting consent.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be **approved**.

How community views were taken into account:

Notification was not required under Council's notification policy pursuant to Section 3.4.2 of the *North Sydney Community Engagement Protocol 2019*. Nevertheless, on 26 May 2021, the subject application was notified to specific adjoining properties at No. 35 Richmond Avenue and No. 28 Macpherson Street seeking comment between 28 May 2021 and 11 June 2021. No submissions were received.

The conditions attached to the original consent for Development Application No. 153/20/2 by endorsed date of 18 September 2020 still apply.

ADVISINGS

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