

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 44/09/5 - APPROVAL**

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**Development Consent Number:** 44/09/5

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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 (1A) application to modify Development Application No. 44/09 for alterations and additions to a two-storey detached dwelling including internal alterations

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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. **44/09/5** 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, A5 and C18 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:

Plan No.	Issue	Dated	Title	Drawn by	Received
DA01	B	12.5.2021	Site and Ground Floor Plan	Stening Architects	27.5.2021
DA02	B	12.5.2021	First Floor Plan	Stening Architects	27.5.2021
DA07	B	17.2.2021	Landscape Plan	Stening Architects	27.5.2021

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

### **Terms of Consent (D44/09/5)**

A5. Approval is granted for the following works as shown on drawings numbered DA01, DA02 and DA07, dated 12 May 2021 and 17 February 2021, drawn by Stening Architects, and received by Council on 27 May 2021:

#### **Internal Works:**

- The opening between the family room and dining room will contain 2m x 2m bifold doors with panels to be 600mm wide.
- The opening between the sitting room and master bedroom on the first floor will contain 2m x 2m bifold doors with panels to be 600mm wide.
- The height of the architraves over the proposed openings will match that of the existing internal doors, thus retaining the 'bulkhead' equal to those over the existing internal doors.

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

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

### **Heritage Design Amendments**

C18. The following design amendments are outlined 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.~~

**The internal wall between the family room and dining room must retain the nib walls on both sides.**

**The internal walls between the sitting room and master bedroom on the first floor must retain nib walls on both sides.**

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)

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The development application has been assessed against *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013*.

The modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

**Reason for approval:**

Having regard to the provisions of section 4.55 & 4.15(1) of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for approval.

The proposal is satisfactory subject to recommended amendments and conditions. Having regard to the provisions of Section 4.15 of the *Environmental Planning & Assessment Act 1979*, the application is considered to be satisfactory and therefore can be approved.

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

The application was not notified in accordance with the North Sydney Community Participation Plan 2019.

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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)**