

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

D135/20
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 135/20/3 - APPROVAL**

Development Consent Number: 135/20

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

Applicant: Simon Agar

Proposal: Section 4.55(1A) modification relating to alterations and additions, including a first-floor addition to an existing dwelling house

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. **135/20/3** 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 insert Condition A4 Development in Accordance with Plans (s4.55 Amendments)

- A1. 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:

Plan No	Issue	Title	Dated	Prepared	Received
S455-01	A	Site Plan	12/7/2021	Fortey + Grant Architecture	9/08/2021
S455-02	A	Level 1 Lower Ground Floor Plan	12/7/2021		9/08/2021
S455-03	A	Level 2 Ground Floor Plan	12/7/2021		9/08/2021
S455-04	A	Level 3 Attic Plan	12/7/2021		9/08/2021
S455-05	A	Roof Plan	12/7/2021		9/08/2021
S455-06	A	North and West Elevation	12/7/2021		9/08/2021
S455-07	A	South and East Elevation	12/7/2021		9/08/2021
S455-08	A	Sections	12/7/2021		9/08/2021

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)

2. To delete Condition C20 b)

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 **(No. 41 Young Street, Cremorne)**)

3. To delete Condition C17 Screen Planting

4. To amended Condition C19 BASIX Certificate

BASIX Certificate

C19. 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 the BASIX **Certificate No. A370718_05**, dated **15 July 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 modification application meets the requirements of section 4.55(1A) and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1A) of the Act, which have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

The proposed modifications are considered substantially the same development as that originally approved and of minimal environmental impact as the proposed modifications relate only to the internal layout of the dwelling and the associated changes to window placements which would not result in any additional privacy impacts for surrounding properties.

The proposed modification is therefore considered reasonable and is recommended for approval.

How community views were taken into account:

The application was notified in accordance with Council's Community Engagement Protocol from 13 August 2021 until 27 August 2021. No submissions were received. Nevertheless, the potential impact of the proposed modifications have been considered having regard to the amenity of the surrounding properties.

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 **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

27 October 2021

DATE

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