

Original signed by     Robyn Pearson

on   28/10/2021

James Chan  
6 Shellbank Parade  
CREMORNE NSW 2090

D95/20  
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED**  
**SECTION 4.55 MODIFICATION 95/20/3 - APPROVAL**

<b>Development Consent Number:</b>	<b>95/20</b>
<b>Land to which this applies:</b>	6 Shellbank Parade, Cremorne Lot No.: 134, DP: 10291
<b>Applicant:</b>	Jason Chan
<b>Proposal:</b>	Section 4.55(1A) Modification regarding the construction of a roof with four structural columns and associated works over the rear balconies approved by DA356/19

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. **95/20** and registered in Council's records as Application No. **95/20/3** relating to the land described as 6 Shellbank Parade, Cremorne.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 1 July 2020, has been determined in the following manner:

**A.     *Impose conditions 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 coloured and **clouded blue** on:

Plan No.	Issue	Title	Drawn by	Dated
A105	F	North West Elevation	KHH Designs	13/08/2021
A106	F	North East Elevation		13/08/2021
A107	F	South West Elevation		13/08/2021
A119	E	Typical Column Detail		05/07/2021

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)

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**Reasons for Approval:**

The proposed modifications satisfy the requirements of section 4.55(1A) of the Act as the modification are considered to be of minimal environmental impact and the development would remain substantially the same development. The proposed modifications are also considered with regard to the reasons for approval of the original development consent and would not cause the development to be inconsistent with the approval.

The original application was determined by the North Sydney Local Planning Panel on 1 July 2020. In accordance with the Minister's Direction dated 30 June 2021 the application is to be determined by council staff as the proposed modification is sought pursuant to section 4.55(1A) of the Act and is therefore not referred to the Local Planning Panel.

The matters for consideration as outlined in section 4.15(1) of the Act have also been satisfied. The proposed development, as modified, is permissible, meets the objective of the height of buildings development standard and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of NSDCP 2013.

The proposed modification would provide an improved architectural response by incorporating a more cohesive form as the width of the columns would align with the existing masonry wall ends that are visible on the northern elevation with the balcony columns.

The application was notified in accordance with Council's Community Engagement Protocol and one submission was received raising concerns with the size of the proposed columns and the potential adverse impact on the amenity of the adjoining property which on review are considered reasonable

The proposed modification would have minimal impact on the amenity of the adjoining properties and the foreshore area. On balance, the proposed modifications are considered reasonable and therefore the application is recommended for approval.

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

The development application was notified in accordance with Council's Community Engagement Protocol from 3 September 2021 until 17 September 2021. One submission, in multiple parts, was received, however, the issues raised did not warrant amendments to the application as any additional impact would be negligible.

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The conditions attached to the original consent for Development Application No. 95/20 by endorsed date of 1 July 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**

**28 October 2021**

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DATE

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