

Building Approval Solutions
PO Box 667
ROUND CORNER NSW 2158

D300/13
RT (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 300/13/2 – APPROVAL

Development Consent Number: 300/13/2

Land to which this applies: 28 Ellalong Road, Cremorne
Lot No.: 1, DP: 1186070

Applicant: Building Approval Solutions

Proposal: Section 4.55(2) modifications to DA300/13 including various changes to the internal layout, fenestration changes and repositioning of a carport.

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. **300/13** and registered in Council's records as Application No. **300/13/2** relating to the land described as **28 Ellalong Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 January 2014, has been determined in the following manner: -

- 1. To modify the development consent (D300/13) and modify conditions A1 and C16 read as follows:**

Development in Accordance with Plans (S4.55 Amendments)

A1. The development being carried out in accordance with the following drawings:

Dwg No	Description	Drawn by	Dated
DA 001	Site Plan/Analysis	Hall Bowra Architects	04.09.13
DA 100	Ground Floor Plan	Hall Bowra Architects	11.12.13
DA 101	Lower Ground	Hall Bowra Architects	04.09.13
DA 102	First Floor	Hall Bowra Architects	04.09.13
DA 103	Roof Plan	Hall Bowra Architects	04.09.13

DA 200	South West Elevation	Hall Bowra Architects	11.12.13
DA 201	North East Elevation	Hall Bowra Architects	04.09.13
DA 202	South East Elevation	Hall Bowra Architects	04.09.13
DA 210	Section	Hall Bowra Architects	04.09.13
DA 211	Section Through Carport	Hall Bowra Architects	11.12.13

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D300/13/2:

Dwg No/Rev	Description	Drawn by	Dated
DA 02 Rev D	Site Plan/Analysis	J. Colpo	29.05.2021
DA 03 Rev D	Existing Basement Demolition Plan	J. Colpo	29.05.2021
DA 04 Rev D	Proposed Basement Plan	J. Colpo	29.05.2021
DA 05 Rev D	Existing Ground Floor Demolition Plan	J. Colpo	29.05.2021
DA 06 Rev D	Proposed Ground Floor Plan	J. Colpo	29.05.2021
DA 07 Rev D	Proposed New First Floor Plan	J. Colpo	29.05.2021
DA 08 Rev D	Roof Plan	J. Colpo	29.05.2021
DA 09 Rev D	South-eastern Elevation	J. Colpo	29.05.2021
DA 10 Rev D	South-western Elevation	J. Colpo	29.05.2021
DA 11 Rev D	South-eastern Elevation	J. Colpo	29.05.2021
DA 12 Rev D	Sections	J. Colpo	29.05.2021

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

BASIX Certificate

C16. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. (A419479) 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)

2. To insert new conditions A4, C17 and G5 to read as follows:

Terms of Consent (D300/13/2)

A4. Approval is granted for the following modifications only:

- (a) **Basement** - Re-configuration of the approved internal layout including the deletion of an existing spiral staircase; extension of an existing bathroom at the rear to provide a bathroom and a laundry and installation of a new staircase to the ground floor;

- (b) **Ground Floor** – Re-configuration of the approved internal layout including deletion of a spiral staircase; installation of two staircases connecting the basement and the first floor respectively and associated fenestration changes on the western and southern elevations;
- (c) **First Floor** – Re-configuration of the approved internal layout to provide a bedroom, a bathroom, a master bedroom with an ensuite bathroom, a revised bedroom balcony and fenestration changes;
- (d) **Roof** – Addition of two (2) new skylights;
- (e) **Carport** – Re-position of the approved carport towards the northern property boundary; the relocation of a bin storage area against the western wall of the main dwelling
- (f) **Other External Works** - Demolition of an existing staircase within the front building setback; extension of the carport concrete slab and construction of a new staircase within the side building setback as modified by Condition C17 of this consent.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

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

Design Modifications

C17. The design of the proposed staircase and carport within the front building setback must be modified as follows:

(a) **Proposed Staircase**

The proposed staircase must be repositioned towards the south-western (front) property boundary with the top landing of the staircase 5m from the south-western (front) property boundary to minimise privacy impacts on habitable room within the western end of the detached dwelling within the adjoining property at No.30 Ellalong Road.

(b) **Planters**

A 2.5m long and 500mm wide planter shall be provided along the south-eastern (side) property boundary with No.30 Ellalong Road to provide a landscape buffer between the subject site and the adjoining property. The south-western edge of the planter shall be located on the Ellalong Road property boundary to enhance the streetscape with planting up to 2m high. Soft landscaping must be provided on the planter including the specie, numbers and mature height of the proposed planting.

Architectural plans incorporating the above requirements must be submitted for the written approval of Council's Team Leader Assessments.

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 minimise amenity impacts for the adjoining properties and to maintain landscaping within front setback/streetscape)

Compliance with Certain conditions

- G5. Prior to the issue of any Occupation Certificate, **Conditions A4 and C17** must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

The proposed modifications would result in a development which is substantially the same development as originally approved.

The proposed modifications would not result in changes in terms of the overall height, bulk/scale and the overall form of the approved development.

Reason for approval:

The proposal would maintain the site coverage as approved in the original DA. The proposed changes to unbuilt upon area and landscaped area are considered to be acceptable subject to the imposition of a condition requiring additional soft landscaping within the front setback.

There would be no material impacts on the amenity of the adjoining properties subject to the modifications/imposition of appropriate conditions.

How community views were taken into account:

The owners of adjoining properties and the Willoughby Bay Precinct were notified of the proposed development between 25 June and 9 July 2021. The notification resulted in no submissions.

The conditions attached to the original consent for Development Application No. 300/13 by endorsed date of 7 January 2014 still apply.

ADVISINGS

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

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