

Original signed by **Robyn Pearson** on **7/03/2022**

Harbour City Homes
C/- John Condon
PO Box 4138
FORSTER NSW 2428

D142/20
AB7 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 142/20/2 - APPROVAL

Development Consent Number: 142/20

Land to which this applies: 8 Byrnes Avenue, Neutral Bay
Lot No.: 4, DP: 219596

Applicant: Harbour City Homes
C/- John Condon

Proposal: Section 4.55(1A) application to modify DA 142/20 to change decking material

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. **142/20** and registered in Council's records as Application No. **142/20/2** relating to the land described as **8 Byrnes Avenue, Neutral Bay**.

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

1. Condition A1 is amended as follows:

Development in Accordance with Plans (S4.55 Amendments)

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

Drawing No.	Title	Revision	Drawn by	Dated	Received
1.01	Site Plan	D	Harbour City Homes	16/09/2020	22/09/2020
1.03	Proposed Ground Floor Plan	D	Harbour City Homes	16/09/2020	22/09/2020
1.04	Proposed First Floor Plan	D	Harbour City Homes	16/09/2020	22/09/2020
1.05	Proposed Roof Plan	D	Harbour City Homes	16/09/2020	22/09/2020
1.09	Proposed Landscape Plan	D	Harbour City Homes	16/09/2020	22/09/2020
2.01	Elevation: South + North	D	Harbour City Homes	16/09/2020	22/09/2020

2.02	Elevation: West	D	Harbour City Homes	16/09/2020	22/09/2020
3.01	Sections	D	Harbour City Homes	16/09/2020	22/09/2020
4.01	Materials Palette	B	Harbour City Homes	08/06/2020	30/06/2020

Except as modified as such on the following drawings for DA 142/20/2:

Drawing No.	Title	Revision	Drawn by	Dated	Received
1.03	Proposed Ground Floor Plan	E	Harbour City Homes	18/02/2022	21/02/2022

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

Reasons for Approval:

The proposed modification satisfies the provisions of Section 4.55 (1A) in that the proposed development remains consistent with what was approved by DA 142/20. The proposed modification will not alter the use, or substantially alter the built form, of the development as originally approved.

The proposed modifications would not change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013. There would be no undue impacts on the residential amenity of any adjoining properties, or on the heritage significance of the subject site or the character of the locality, and the proposal 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(1A) application be approved.

How community views were taken into account:

There is no requirement to advertise a Section 4.55(1A) application, and no neighbour would be impacted by the minor alteration of material to the rear deck.

The conditions attached to the original consent for Development Application No. **142/20** by endorsed date of **1 October 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

7 March 2022

DATE

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