

Esan Rahmani
Peak Architects
2B/5 Belmore Street
BURWOOD NSW 2134

D63/21
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 63/2021/2 - APPROVAL**

Development Consent Number: 63/2021

Land to which this applies: 5 Earle Street, Cremorne
Lot No.: 9, Sec.: 1, DP: 979110

Applicant: Esan Rahmani

Proposal: Section 4.55(1A) modification relating to the construction of a dwelling house, retaining walls and associated landscaping to delete condition C9

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. **63/2021** and registered in Council's records as Application No. **63/2021/2** relating to the land described as **5 Earle Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **6 October 2022**, has been determined in the following manner:

A. Delete Condition C9

~~C9. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply 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 quality built form of the development}

The modification application meets the requirements of section 4.55(1A) of the Act and has been assessed with regard to the original reasons for approval and the matters for consideration as outlined in section 4.15(1) of the Act, which have been satisfied.

Reason for Approval:

The proposed modifications are considered substantially the same development and of minimal environmental impact. The proposed modification to delete condition C9 is considered reasonable to enable construction of the building and retain the design of the upper level as otherwise approved.

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

How community views were taken into account:

The section 4.55(1A) application was not notified as the development is considered to be of minimal environmental impact as provided by Council's Community Engagement Protocol and would not have a detrimental impact on the amenity of the surrounding dwellings.

The conditions attached to the original consent for Development Application No. **63/2021** by endorsed date of **6 October 2022** 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

04 April 2022

DATE

Signature on behalf of consent authority
MICHAEL STEPHENS
A/TEAM LEADER (ASSESSMENTS)