



Miss Emily Sandstrom  
87 Cary Street  
MARRICKVILLE NSW 2204

D400/05  
JM15 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 400/05/3 - APPROVAL**

<b>Development Consent Number:</b>	<b>400/05</b>
<b>Land to which this applies:</b>	37 Kareela Road, Cremorne Point Lot No.: B, DP: 89672
<b>Applicant:</b>	Emily Sandstrom
<b>Proposal:</b>	Modify development consent proposing alterations and additions to the garage building, lift and associated works, and to the main dwelling

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. **400/05** and registered in Council's records as Application No. **400/05/3** relating to the land described as **37 Kareela Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **31 May 2006** has been determined in the following manner:

**1. To modify Conditions A1 'Development is Accordance with Plans/Documentation' as follows:**

**Development in Accordance with Plans/Documentation**

A1 The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's Approval stamp, except where amended by the following conditions of this consent.

Plan #	Rev	Description	Prepared by	Dated
2022,07	C	Site Plan	Emily Sandstrom Architects	14/7/2023
2022,07	C	Floor Plans	Emily Sandstrom Architects	14/7/2023
2022,07	C	Elevations Plan	Emily Sandstrom Architects	14/7/2023
D01	A	General Notes Stormwater Plan	NB Consulting Engineers	12/12/2022
D02	A	Ground Floor and First Floor - Stormwater Plan	NB Consulting Engineers	12/12/2022
D03	A	Garage and Roof and Details - Stormwater Plan	NB Consulting Engineers	12/12/2022

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

1. *Condition C1, C3, C5 and C7 are to be deleted from the consent*

2. *Condition C4 shall be amended to read as follows:*

**Landscape Plan**

C4. A Landscape Plan shall be prepared for the proposed treatment for the remaining front garden and shall include a planting schedule for this area. Details are to be provided to the Certifying Authority for approval prior to the issue of a Construction Certificate.

(Reason: To ensure appropriate landscaped area is retained on site and that the proposed landscaping contributes to the amenity of the site and the streetscape)

3. *Condition C6 shall be amended to read as follows:*

**Balustrades to Pool Deck**

C6. The balustrades should be of lightweight material and contemporary in design without any decorative elements.

(Reason: To retain the legibility of the traditional building when viewed from either Cremorne Reserve or Mosman Bay)

4. *The following additional condition is to be imposed:*

**Lease for Airspace to be Updated**

G5. Prior to the issue of the final occupation certification, the Certifying Authority is to be satisfied that the "Lease of Airspace" required by Condition AA1 is updated to ensure the current owner of the property is the lessee.

(Reason: To ensure appropriate arrangements are in place with the owner of the land)

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**Reasons for Approval:**

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP&A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the grant of development consent to the originally approved development and are considered to be acceptable.

Having regard to the provisions of section 4.55 and 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

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

The proposal would be located in a R2 (Low Density) Residential where modification to a development approval ancillary to an approved dwelling are a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

The conditions attached to the original consent for Development Application No. **400/05** by endorsed date of **31 May 2006** still apply.

**ADVISINGS**

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

**25 September 2023**

DATE

  
Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER (ASSESSMENTS)**