



Ms Lucie Claire Austin
14 Tobruk Avenue
CREMORNE NSW 2089

D112/22
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 112/22/2 - APPROVAL**

Development Consent Number: 112/22

Land to which this applies: 14 Tobruk Avenue, Cremorne
Lot No.: 1, DP: 1279174

Applicant: Lucie Claire Austin

Proposal: Section 4.55(2) Modifications to approved secondary dwelling including a roof over an upper floor terrace

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. **112/22** and registered in Council's records as Application No. **112/22/2** relating to the land described as **14 Tobruk Avenue, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **9 March 2023**, has been determined in the following manner:

- To modify the development consent (D112/22) and modify condition A1 to read as follows:*

Development in Accordance with Plans (S4.55 Amendments)

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

Plan No.	Description	Prepared by	Dated
01B	Site Plan	Peter Drowns	23.02.23
02B	Garage Level	Peter Drowns	23.02.23
03B	Secondary Dwelling Top Floor Plan	Peter Drowns	23.02.23
04B	Secondary Dwelling Bottom Floor Plan	Peter Drowns	23.02.23
05B	North Elevation	Peter Drowns	23.02.23
06B	South Elevation	Peter Drowns	23.02.23
07B	East & West Elevations	Peter Drowns	23.02.23
08B	Street Elevation	Peter Drowns	23.02.23
09B	Section	Peter Drowns	23.02.23
13b	Roof Plan	Peter Drowns	23.02.23

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D112/22/2:

Plan No.	Description	Prepared by	Dated
01C	Site Plan	Peter Drowns	27.03.23
02C	Garage Level	Peter Drowns	27.03.23
03C	Secondary Dwelling Top Floor Plan	Peter Drowns	27.03.23
04C	Secondary Dwelling Bottom Floor Plan	Peter Drowns	27.03.23
05C	North Elevation	Peter Drowns	27.03.23
06C	South Elevation	Peter Drowns	27.03.23
07C	East & West Elevations	Peter Drowns	27.03.23
08C	Street Elevation	Peter Drowns	27.03.23
09C	Section	Peter Drowns	27.03.23
13C	Roof Plan	Peter Drowns	27.03.23

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

2. To insert new condition A4 to read as follows:

Terms of Consent (D112/22/2)

A4. Approval is granted for the addition of a roof cover over the upper level terrace on the rear elevation of the approved secondary dwelling.

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.)

Reason for approval:

The proposed modifications have been assessed against the relevant SEPP's including SEPP (Housing) 2021, the *North Sydney LEP 2013* and *North Sydney DCP 2013* and were found to be generally satisfactory.

The minor variations to the LEP maximum building height limit of 8.5m for the proposed roof cover are considered to be acceptable because there would be no material impacts arising from the non-compliance with the height limit in terms of the loss of views, solar access and privacy.

The proposed modifications would not result in further changes to the landscaping treatments with the subject site.

The proposed modifications would not change the overall built form, bulk and scale and the landscape quality of the approved development and there would be no material impacts on the adjoining properties arising proposal.

How community views were taken into account:

The adjoining property owners and the Willoughby Bay Precinct were notified of the proposed development between 28 April and 12 May 2023. The notification of the proposal has attracted no submissions.

The conditions attached to the original consent for Development Application No. **112/22** by endorsed date of **9 March 2023** still apply.

ADVISINGS

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

4 December 2023

DATE



Signature on behalf of consent authority
ROBIN TSE
SENIOR ASSESSMENT OFFICER