

Development Consent No. 226/14

Section 4.55 Application

Applicant's Name

Martyn Stephen Frost

Land to which this applies

83 Young Street, Cremorne
Lot No.: A, DP: 106436

Proposal

A Section 4.55 application to modify DA226/14 with the modification of Condition C11 to permit the northern first floor windows to be operable.

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. **226/14** and registered in Council's records as Application No. **226/14/2** relating to the land described as **83 Young Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 19 September 2014, has been determined in the following manner:

Modify Condition C11 as follows:

Privacy

C11. The following privacy devices are to be provided:

- The northern bedroom 1 window (W4) must have a 1500mm high sill and may be an operable awning style window.
- The northern bedroom 2 window (W2) must have a 1500mm high sill and must be permanently fixed.
- The northern staircase window (W3) must be permanently fixed and fitted with obscure glass.
- The northern shower window (W6) must be fitted with obscure glass.

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 applicant has provided the following reasons for the deletion of these conditions:

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 an adequate level of visual and acoustic privacy is provided to adjoining property located at No.85 Young Street, Cremorne)

Add Condition I1 as follows:

Northern first floor bedroom 2 and staircase windows

I1. For the life of the development, the first floor northern bedroom 2 window (W2) and the first floor northern staircase window (W3) must be permanently fixed.

(Reason: To ensure that reasonable acoustic privacy is maintained with the adjoining property at No. 85 Young Street, Cremorne.)

Reason for approval

Subject to the recommended modification to Condition C11, the reasons for granting approval to the DA will not be undermined and a reasonable level of visual and acoustic privacy will be maintained with the adjoining property at No. 85 Young Street.

How were community views taken into account in making the decision

On 23 July 2018, the Section 4.55 application was notified to the owner of No. 85 Young Street in accordance with Section 4.4.1 in Part A of NSDCP 2013. One submission was received against the application. The issues raised in the submission were considered and addressed in the delegated report and in the modifications to Condition C11.

The conditions attached to the original consent for Development Application No. 226/14 by endorsed date of 19 September 2014 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Luke Donovan**. 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (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 Certifying Authority 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.

DATE

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