

Original signed by: **Robyn Pearson** on: **10/4/19**

Brian Elbayeh
15 Trumper Street
ERMINGTON NSW 2115

D409/12
RT (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 409/12/5 – APPROVAL

Development Consent Number: 409/12

Land to which this applies: 16 Laycock Street, Neutral Bay
Lot No.: A, DP: 401785

Applicant: Brian Elbayeh

Proposal: Section 4.55 (2) modifications to D409/12 including changes to the fenestration of the ground floor rear elevation and the configuration of a rear staircase.

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. **409/12** and registered in Council's records as Application No. **409/12/5** relating to the land described as **16 Laycock Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 28 February 2013, has been determined in the following manner: -

1. To modify Conditions A1 and G3 as follows:

Development in Accordance with Plans (S4.55 Amendments)

- A1. The development being carried out in accordance with the following drawings numbered 200725A A2.01 to A2.04 drawn by Building Design and Technology, dated November 2012 and received by Council on 27 November 2012, and drawings numbered 200725A A2.05 and A2.06 drawn by Building Design and Technology, dated February 2012 and received by Council on 22 February 2013, and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D409/12/4:

Plan No.	Rev	Date	Drawn by	Received
A1.01	A	29.10.18	Cornerstone Creations	13 November 2018
A1.02	A	29.10.18	Cornerstone Creations	13 November 2018
A1.03	A	29.10.18	Cornerstone Creations	13 November 2018

except as modified by highlighting on the following drawings for D409/12/5:

Plan No.	Rev	Date	Drawn by	Received
A1.01	A	8.03.19	Cornerstone Creations	11 March 2019
A1.02	A	8.03.19	Cornerstone Creations	11 March 2019
A1.03	A	8.03.19	Cornerstone Creations	11 March 2019

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

Compliance with Certain Conditions

G3. Prior to issue of any Occupation Certificate, the scope of works as detailed in Conditions A4 and A5 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

2. *To insert new condition no. A5 as follows:*

Terms of Consent (D409/12/5)

A5. Approval is granted for the following works as shown on drawings numbered A1.01 Rev A, A1.02 Rev A, A1.03 Rev A, dated 8.03.19, prepared by Cornerstone Creations and received by Council on 11 March 2019 as follows:

- (a) Replacement of a kitchen window and doorway with bi-fold doors on the rear (western) elevation;
- (b) Installation of new 1.05m high timber handrail with glass inserts along the western edge of the ground floor rear deck; and
- (c) Changes to the configuration of the rear staircase connecting the ground floor rear deck and the rear garden.

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)

The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

Reason for approval:

The proposal modifications would have no adverse impacts in terms of height, bulk and scale of the approved development.

The proposed modifications would not cause material impacts on the amenity of the adjoining properties in terms of the loss of significant views, solar access and privacy.

In summary, the proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved with modifications to the relevant conditions.

How community views were taken into account:

The adjoining properties were notified about the proposed development for the period between 19 March and 1 April 2019. The notification has resulted in no submissions.

The conditions attached to the original consent for Development Application No. 409/12 by endorsed date of 28 February 2013 still apply.

ADVISINGS

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

Endorsed for and on behalf of North Sydney Council

DATE

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