

Original signed by David Hoy on 30/9/2020

Felicity & Chris Cornforth
C/- Smith & Tzannes Architects
M1, 147 McEvoy Street
ALEXANDRIA NSW 2015

D207/18
DWH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 207/18/2 – APPROVAL**

Development Consent Number: 207/18/2

Land to which this applies: 36 Myrtle Street, North Sydney
Lot No.: 1, DP: 742738

Applicant: Felicity & Chris Cornforth

Proposal: To modify DA 207/18 comprising of internal and external modifications to ground and first floor additions including extension of first floor to boundary.

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. **207/18** and registered in Council's records as Application No. **207/18/2** relating to the land described as **36 Myrtle Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 21 December 2018, has been determined in the following manner: -

1. Condition A1 of the consent being modified so as to read 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 No.	Issue	Title	Dated	Drawn by	Received
001	B	Project Details	14-8-2020	Smith & Tzannes	14-8-2020
100	B	Lower ground floor plan	14-8-2020	Smith & Tzannes	14-8-2020
101	B	Ground floor plan	14-8-2020	Smith & Tzannes	14-8-2020
102	B	Level 1 floor plan	14-8-2020	Smith & Tzannes	14-8-2020

103	B	Roof plan	14-8-2020	Smith & Tzannes	14-8-2020
200	B	South & east elevations	14-8-2020	Smith & Tzannes	14-8-2020
201	B	North & west elevations	14-8-2020	Smith & Tzannes	14-8-2020
202	B	Sections A & B	14-8-2020	Smith & Tzannes	14-8-2020

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

2. *Condition A4 relating to windows W3-1 and W3-2 on the eastern ground floor elevation be deleted.*
3. *Condition C9 & E5 be deleted.*
4. *That the following additional condition be imposed:*

Cladding to eastern elevation of first floor

- A5. The cladding to eastern elevation of first floor bedroom must be equal to James Hardie Scyon Axon Cladding- Fibre Cement Vertical Joint Panels 133mm Paint Finish in Gun metal grey. The substrate of this wall element is to be recessed from the lower wall to ensure no finish extends beyond the property boundary.

The Principle Certifier is to ensure that the selected product complies with required fire safety ratings and is finished to an appropriate standard to Comply with the NCC.

(Reason: To ensure appropriate cladding on the eastern elevation)

Reason for approval:

The proposed modifications have been considered against the relevant provisions of the Environmental Planning and Assessment Act 1979, North Sydney Local Environmental Plan 2013 and Development Control Plan 2013 and all other relevant statutory Instruments and is considered to satisfactorily address those requirements.

The proposed modifications essence of the originally approved development application and would not result in any material adverse amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of Section 4.55 & 4.15 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.

How community views were taken into account:

The owners of adjoining properties and the Hayberry Precinct were notified of the proposed development for a 14-day period, between 25 May and 12 June 2020, in accordance with Council's Community Participation Plan. The notification resulted in one (1) unique submission by way of objection. The issues raised in the submission were addressed in the delegated report.

The conditions attached to the original consent for Development Application No. 207/18 by endorsed date of 21 December 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. 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
DAVID HOY
TEAM LEADER ASSESSMENTS