



# Section 4.55 Modification

## Environment and Planning Services

### WHAT IS A SECTION 4.55 MODIFICATION?

Section 4.55 of the Environmental Planning and Assessment Act 1979 (As amended) allows modifications to be made to a consent, however, the development must be substantially the same development. These modifications are:

1. Minor Modifications – Section 4.55 (1)
2. Minor Modifications – Section 4.55 (1a)
3. Other Modifications – Section 4.55 (2)

### WHAT IS A MINOR MODIFICATION?

A minor modification Section 4.55 (1) is a modification to a consent to correct a minor error, misdescription or miscalculation. There would be no change to the form of the development approved, and notification would not be required.

For example: · Wrong plan numbers

A minor modification Section 4.55 (1a) is a modification involving a minimal environmental impact. These are used for minor amendments. There is no impact on privacy, height, overshadowing, etc, and notification may be required.

These might be:

- Internal design changes
- Amended landscape plans
- Drainage design amendment

### WHAT IS AN “OTHER MODIFICATION”?

“Other modification” is a modification to a development which is substantially the same development but where environmental impact is possible. They generally require notification. Typical changes include:

- Windows
- Floor levels
- Heights
- Car parking generation
- Roof design

This type of application may (for example) be requested to modify:

- Approved plans;
- Conditions of consent; and/or
- The description of the consent

If the applicant cannot satisfy Council that the modifications proposed are substantially the same development as originally approved, a new development application will be required to be lodged with Council for assessment.

### WHO CAN APPLY?

- The original applicant
- The owner of the land
- Any person who is entitled to act upon the consent or construction certificate

### FEES

For Section 4.55 fees, please refer to Council's Fees and Charges.

### **WHAT INFORMATION IS NEEDED TO ACCOMPANY MY APPLICATION?**

All section 4.55 applications must be accompanied by one (1) set of plans in addition to a disc or USB of the following information:

- Statement of Environmental Effects which clearly addresses the proposed modifications with respect to relevant Council policies and Section 4.55 of the Environmental Planning and Assessment Act 1979. The SEE shall include details of the proposed changes accompanied by a set of proposed and approved plans, with the proposed changes being highlighted for ease of comparison. The SEE must address the relevant Section 4.55 provisions and demonstrate that the development to which the consent as modified relates is substantially the same development for which the consent was originally granted and before that consent as originally granted was modified (if at all).
- Site Survey Plan (if required)
- Applicants may choose to submit an application for a construction certificate with the Section 4.55 application. Should this be the case, the following additional information is required:
  - Details and specifications for building works;
- A section 4.55 modification application seeking an amendment to a BAL rating condition must be accompanied by a new bushfire assessment report prepared by an accredited bushfire consultant.
- Completed form and relevant fees.

### **DOCUMENTATION FORMAT**

All hard copy section 4.55 Applications lodged with Council are required to be accompanied by a CD, DVD or USB drive with electronic files containing all documentation.

For clarification on submission requirements, applicants can consult with the Duty Town Planner or Building Surveyor. A separate fact sheet entitled "Electronic lodgement of files" is available for download to assist with document preparation.

### **IS IT NECESSARY TO DISCUSS THE APPLICATION WITH A COUNCIL OFFICER?**

Yes, it is recommended that applicants consult with the Town Planning and / or Building Surveyor Customer Service Officer, prior to formally submitting an application to council. Applications will be checked prior to lodgement to ensure all relevant information is supplied to enable Council to assess and determine the development application.

Council does not provide pre-lodgement meetings for Section 4.55 applications.

### **WILL MY NEIGHBOUR BE ADVISED OF THE APPLICATION?**

If a Section 4.55 modification is minor Council will determine if neighbour notification is required. For all other modifications, Council will notify adjoining property owners and allow a minimum 14 day period for submissions to be received.

Accordingly, it is advised prior to lodgement of the section 4.55 modification to Council that you discuss your proposal with your neighbours and therefore avoid delay in the processing of the application at a later date.

### **FURTHER INFORMATION**

If you are unsure, please ask. Time spent early may avoid delays later Customer Service Centre: 3 Columbia Court, Norwest NSW 2153 General Enquiries Phone: 9843 0555