

Dr S J Winchester  
87 Holtermann Street  
CROWS NEST NSW 2065

D209/18  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 209/18/3 – APPROVAL**

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**Development Consent Number:** 209/18/3

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**Land to which this applies:** 87 Holtermann Street, Crows Nest  
Lot No.: 120, DP: 597423

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**Applicant:** Stuart Winchester

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**Proposal:** Section 4.55(1A) Modification to approved fence height  
from 1.8 metres to 2.1 metres.

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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. **209/18** and registered in Council's records as Application No. **209/18/3** relating to the land described as **87 Holtermann Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 23 October 2018, has been determined in the following manner: -

- 1. To insert Condition A4 of the consent and insert in lieu thereof the following new condition namely:*

**Development in Accordance with Plans (S4.55 Amendments)**

- A1. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on:

DA209/18/3 Approved Plan References

Plan No.	Dated	Issue	Title	Drawn by	Received
L201	21 March 2019	D	Landscape Elevation	Outdoor Establishments	22 March 2019
L301	21 March 2019	F	Landscape Details	Outdoor Establishments	22 March 2019

except as amended by the following conditions and this consent.

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

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**Reason for approval:**

The proposed development as modified is considered to be substantially the same development as approved. The development application as modified has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013.

The development will maintain residential amenity on site with no material adverse impacts on adjoining properties, and will not adversely impact on the streetscape. All other issues identified in the report have been found to be either acceptable or able to be managed via the as imposed conditions of development consent.

Having regard to the provisions of Section 4.15 of the *Environmental Planning & Assessment Act 1979*, the application is considered to be satisfactory and therefore can be approved.

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**How community views were taken into account:**

The application was not notified. Notwithstanding this, the application was assessed having regard for the potential impacts arising from the increase in height for the fence and was found to be acceptable in the circumstances.

The modifications do not result in any unreasonable adverse impacts to the locality and ensure the protection of the public interest.

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The conditions attached to the original consent for Development Application No. 209/18 by endorsed date of 23 October 2018 still apply.

**ADVISINGS**

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

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER ASSESSMENTS**