

Original signed by: David Hoy on: 6/5/19

Anton R. Heckendorf  
14 Hayberry Street  
CROWS NEST NSW 2065

D382/17  
MD1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 382/17/2 – APPROVAL**

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**Development Consent Number:** 382/17/2

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**Land to which this applies:** 14 Hayberry Street, Crows Nest  
Lot No.: 8, SEC: 2, DP: 1265

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**Applicant:** Anton R. Heckendorf

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**Proposal:** Modify DA 382/17 for various alterations and additions  
to shop top housing.

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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. **382/17** and registered in Council's records as Application No. **382/17/2** relating to the land described as **14 Hayberry Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 31 May 2018, has been determined in the following manner: -

**1. To insert the following condition:**

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

A1A. 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 drawings numbered S.455(1a) - 01, S.455(1a) - 07, S.455(1a) - 08, S.455(1a) - 09, S.455(1a) - 10, S.455(1a) - 11 and S.455(1a) - 12., rev. B, dated April 2019, drawn by Michael Airey, and received by Council on 30 April 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 application has been assessed against the *Environmental Planning and Assessment Act 1979*, *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013*.

The subject application proposes to replace the existing skylights with larger skylights. The Heritage Impact Statement that formed part of the development application had recommended no increase to skylights and, subsequently, condition A4(13) of the development consent limited the replacement skylights to maintain the size of the existing skylights. The subject application may thus affect the building's heritage significance and may not constitute 'minor environmental impact'. The proposed skylights are inconsistent with Section 4.55 of the Act.

The proposed fence and internal alterations are consistent with the reasons of approval of DA 381/17 and satisfy Section 4.55 of the Act.

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

The owners of adjoining properties and the local community precinct committee were notified of the proposed development for a 14-day period. The notification resulted in no submissions. Standard conditions can adequately address any potential, unreasonable adverse impacts to the locality and ensure the protection of the public interest.

Having regard to the provisions of Section 4.15 of the Act, the application is considered to be satisfactory and therefore can be approved.

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The conditions attached to the original consent for Development Application No. 382/17/2 by endorsed date of 31 May 2018 still apply.

**ADVISINGS**

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