

Original signed by: David Hoy Dated: 18/7/2019

Christopher Harrhy and Jennette R Harrhy
59A Hayberry Street
CROWS NEST NSW 2065

D177/18
MD1(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 177/18/3 – APPROVAL**

Development Consent Number: 177/18

Land to which this applies: 59A Hayberry Street, Crows Nest
Lot No. 152, DP 629361

Applicant: Christopher Harrhy and Jennette R Harrhy

Proposal: Modification to the paragraph following Clause C9 by addition to wording similar to “Relating to works connected to the carport and associated works adjacent to Emmett Lane”

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. **177/18** and registered in Council's records as Application No. **177/18/3** relating to the land described as **59A Hayberry Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 September 2018, has been determined in the following manner: -

1. To amend condition no. C9 of the consent as follows:

Obtain Driveway Crossing Permit under S.138 Roads Act, 1993

C9 A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of a Construction Certificate **relating to works connected to the carport and associated works adjacent to Emmett Lane**. In order to obtain a permit under S.138 of the Roads Act, 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The permit must be granted by Council prior to the issue of a Construction Certificate **relating to works connected to the carport and associated works adjacent to Emmett Lane.**

Reason for approval:

The application seeks consent to modify condition C9 to enable the staging of approved works. The application does not propose any new works or changes to the approved works. The proposal will not impact the site, neighbouring land or the public domain. Council's Development Engineer is satisfied with the proposal. The proposal constitutes minor environmental impact, substantially the same development as was originally approved, and is consistent with Sections 4.15 and 4.55 of the Act.

How community views were taken into account:

NSDCP 2013 does not require the notification of Modification of Consent Applications which it determines will not substantially change the originally approved development or which will not disadvantage neighbouring land.

The application only seeks to stage the approved works. The proposal will not impact neighbouring land or the public domain. The proposal satisfies section 4.5.1 within NSDCP 2013 and Clause 4.15(2) (c) within the Act and the application has not been notified.

The conditions attached to the original consent for Development Application No. 177/18 by endorsed date of 6 September 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

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)