

Tanya & Dean Thomas
14 Spofforth Street
CREMORNE NSW 2090

D370/12
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 370/12/3 – APPROVAL**

Development Consent Number: 370/12/3

Land to which this applies: 14 Spofforth Street, Cremorne
Lot No.: 1, DP: 196242

Applicant: Tanya & Dean Thomas

Proposal: Section 4.55(1A) modifications to D370/12 for modifications to Condition C9 in relation to required infrastructure works.

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. **370/12** and registered in Council's records as Application No. **370/12/3** relating to the land described as **14 Spofforth Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 8 May 2013, has been determined in the following manner: -

1. To modify Condition C9 of the development consent (D370/12) as follows:

Required Infrastructure Works – Roads Act 1993

C9. Prior to issue of the Construction Certificate the applicant must have engineering design plans and specifications prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development:

Road Works

- a) Construction of new kerb and gutter along Spofforth Street is required from the northern end of the new layback (as required by Condition C8) to the base of the existing rock outcrop to the south of the an existing walkway/stairs across the Spofforth Street nature strip. The typical design of the kerb and gutter shall be consistent with the design shown on Drawing No. F1 Rev B, prepared by LMW Design Group P/L and dated 9 June 17 and approved as part of the application for vehicular crossing and associated works on 27 June 2017.

- b) Construction of a fully new road shoulder (maximum grade **3.0%** down towards new gutter) extending to **1.2 m** out from the gutter alignment and adjacent to new kerb and gutter.

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and the requirements of the Roads Act 1993)

The proposed modifications to Condition C9, involving changes to the scope of required infrastructure works on Spofforth Street in front of the subject site, would not result in changes to the overall design, bulk, scale and building envelope of the approved development and will have negligible environmental impacts on the locality and adjoining properties.

In addition, the proposed modifications would not change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013.

Reason for approval:

Council's Senior Development Engineer has raised no objection to the proposed deletion of Condition C9(a) given the site circumstances and the design of the now completed driveway crossing. The proposed modifications to the wording of Condition C9(b) is also acceptable because this clarifies the scope of the required kerb and gutter works in front of the subject site.

It is considered that the proposed modifications would be consistent with the reasons for granting approval for the original DA subject to the modifications to Condition C9.

The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1A) application be approved with modifications to the relevant conditions.

How community views were taken into account:

Notification of the subject application was waived in accordance with Section 4.5.1 in Part A of North Sydney DCP 2013.

The conditions attached to the original consent for Development Application No. 370/12 by endorsed date of 8 May 2013 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robin Tse**. 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
ROBYN PEARSON
TEAM LEADER ASSESSMENTS