

**Original signed by: Robyn Pearson Dated: 13/8/2019**

Peter Nochar and Graham & Gail Rich  
53A and 55A Grasmere Road  
CREMORNE NSW 2090

D346/17  
RT(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 346/17/4 – APPROVAL**

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**Development Consent Number:** 346/17/4

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**Land to which this applies:** 53A and 55A Grasmere Road, Cremorne  
Lot No's.: 3 and 4, SP: 16561

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**Applicant:** Graham and Gail Rich and Peter Nochar

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**Proposal:** Section 4.55(2) modifications to D346/17 for alterations and additions to two semi-detached dwellings including the retention of the existing garages, deletion of approved first floor bedrooms/balconies and a reduction in the size of the first floor addition with a revised roof form.

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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. **346/17** and registered in Council's records as Application No. **346/17/4** relating to the land described as **53A and 55A Grasmere Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 8 February 2018, has been determined in the following manner: -

- To modify the development consent (D346/17/4) and modify conditions A1, A4 and C7 to read as follows:*

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

A1. The development being carried out in accordance with the following drawings:

Plan No.	Issue	Drawn by	Date	Received
DA02	E	Watershed Design	23 November 2017	24 November 2017
DA03	D	Watershed Design	18 September 2017	29 September 2017
DA04	E	Watershed Design	23 November 2017	24 November 2017

DA06	E	Watershed Design	23 November 2017	24 November 2017
DA07	E	Watershed Design	23 November 2017	24 November 2017
DA08	E	Watershed Design	23 January 2018	23 January 2018
DA15	E	Watershed Design	23 November 2017	24 November 2017

and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D346/17/4:

Plan No.	Date	Drawn by	Received
DR-4210			
Sheet 0.2	24 June 2019	Planshop	24 June 2019
Sheet 0.8	24 June 2019	Planshop	24 June 2019
Sheet 0.9	24 June 2019	Planshop	24 June 2019
Sheet 0.10	24 June 2019	Planshop	24 June 2019
Sheet 0.12	24 June 2019	Planshop	24 June 2019
Sheet 0.13	24 June 2019	Planshop	24 June 2019
Sheet 0.14	24 June 2019	Planshop	24 June 2019
Sheet 0.15	24 June 2019	Planshop	24 June 2019
Sheet 0.16	24 June 2019	Planshop	24 June 2019
Sheet 0.20	24 June 2019	Planshop	24 June 2019
Sheet 0.15	24 June 2019	Planshop	24 June 2019

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

#### **Approved External Materials and Finishes**

A4. External finishes and materials must be in accordance with the submitted schedule (Drawing numbered DR-4210 sheet 0.20, dated 28 May 2019 and drawn by Planshop) received by Council on 24 June 2019 unless otherwise modified by Council in writing.

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

#### **Obtain Driveway Crossing and associated works permit**

C7. Prior to the issue of the Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works **permit** to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a '*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 permit issue. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative. The civil design drawings shall detail **the following infrastructure construction requirements of Council in relation to the consent:**

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- ~~b) The redundant parts of layback crossing on Grasmere Lane must be reinstated as upright kerb gutter and concrete footpath.~~
- c) The width of the vehicular layback is to match existing.
- d) The vehicular laybacks must be set square to the kerb.
- e) The boundary footpath levels and gutter invert levels must match the existing levels and shall not be altered unless agreed to by Council.
- f) Alignment levels at the boundary have an important impact on the proposed levels for new driveway. The works must not start until confirmation of boundary alignment levels from registered surveyor. Council has the authority to remove any unauthorized works at the cost of the property owner.
- g) The Certifying Authority must ensure that the internal property levels at boundary matches council's confirmed boundary levels.
- h) The kerb gutter, and 600 mm road shoulder wide- strip, adjacent to all new layback and gutter works, on Grasmere Lane must be reconstructed, to ensure uniformity in the road reserve.
- i) All inspection openings, utility services must be adjusted to match the proposed driveway levels and location.
- j) The design detail has to be provided with **vehicular access application** and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- k) A longitudinal section along the footpath property boundary at a scale of 1:50 is required and shall include all changes of grade and levels, **both** existing and proposed.
- l) The sections must show the calculated clearance to the underside of any overhead structure.
- m) Pipelines within the footpath area must be hot dipped galvanized rectangular steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
- n) Any footpath panel on Grasmere Lane that is disturbed for the purpose of stormwater connection must be reconstructed as a whole panel.

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

2. *To insert Condition C12 as follows:*

**BASIX Certificate**

C12. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No.A342124 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

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The development application has been assessed against the North Sydney Local Environmental Plan 2013, North Sydney Development Control Plan 2013 and relevant State Planning Policies and found to be generally acceptable in the site circumstances.

The proposed modifications would result to a development which is substantially the same development as originally approved.

**Reason for approval:**

The proposed modifications comply with the LEP maximum building height control and would result in a reduction in the height, bulk and scale of the new first floor addition as originally approved. Furthermore, the proposed pitch/gable roof form for the modified first floor addition would be more consistent with the characteristic roof form within the locality.

The proposed modifications would have no material impacts on the amenity of nearby residential properties and would not change the site coverage, unbuilt upon area and landscaped area as originally approved.

Therefore, the application is considered to be reasonable in the site circumstances and recommended for approval, subject to the imposition of modified and additional conditions of consent.

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

The owners of adjoining properties and the Parks Precinct were notified of the proposed modifications between 5-19 July 2019. The notification has attracted no submissions.

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The conditions attached to the original consent for Development Application No. 346/17 by endorsed date of 8 February 2018 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**

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DATE

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Signature on behalf of consent authority  
**ROBYN PEARSON**  
**TEAM LEADER(ASSESSMENTS)**