

Andy Kam Kan Fung
29 Ridge Street
EPPING NSW 2121

D436/17
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 436/17/3 – APPROVAL**

Development Consent Number: 436/17/3

Land to which this applies: 85 Ernest Street, Crows Nest
Lot No.: 1, DP: 14443

Applicant: Andy Kam Kan Fung

Proposal: Section 4.55(1) application to modify DA No. 436/17
with regards to the deletion of Conditions C12(a) and (b).

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. **436/17** and registered in Council's records as Application No. **436/17/3** relating to the land described as **85 Ernest Street, Crows Nest**.

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

- *To delete Condition C12 'Required Infrastructure Works –Roads Act 1993'*
-

Reason for approval:

The 4.55 application seeks to delete specifically Condition C12(a) and (b), however, Council's Development Engineer considers the entirety of Condition C12 should be deleted as it was applied in error given the nature of the consent which was principally for the construction of a new dwelling house with ancillary works.

How community views were taken into account:

The development application was not formally notified, in accordance with Section A4 of the North Sydney Development Control Plan 2013, as it is not considered to have a material impact on surrounding buildings or land uses.

The conditions attached to the original consent for Development Application No. 436/17 by endorsed date of 23 May 2018 still apply.

ADVISINGS

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