

Peter Lonergan  
156A Church Street  
NEWTOWN NSW 2042

D399/17  
GM (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 399/17/3 - REFUSAL**

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**Development Number:** 399/17/3

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**Land to which this applies:** 61 Ernest Street, Crows Nest  
Lot No.: 1, DP: 926655

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**Applicant:** Peter Lonergan

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**Proposal:** To modify consent for alterations and additions to subdivide the existing Federation dwelling house into a semi-detached dwelling (2 residences with 4 bedrooms each), construction of garaging with rear lane access and associated landscaping. Subdivision into two lots

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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. **399/17** and registered in Council's records as Application No. **399/17/3** relating to the land described as **61 Ernest Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 8 November 2017, has been refused.

**Reason for refusal:**

1. The proposal exceeds the site cover requirements under North Sydney Development Control Plan 2013.
2. The proposal has additional amenity impacts on the adjoining neighbour at 18 Burlington Lane.
3. The proposal is not consistent with the reasons given by the consent authority for the grant of the consent that is sought to be modified (Section 4.55(3) of the E P & A Act) in that the amended plans do not address the concerns of the objectors and do not comply fully with site density controls.

4. The *Cinnamomum camphora* for which removal is requested shows no sign whatsoever of “low health and vigour”. It is a highly significant part of the urban canopy in this part of heavily developed Crows Nest and shall continue to be conditioned for retention. The tree is also highly likely to provide habitat to native fauna.

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

Three submissions were received in response to Council’s notification of the application. The submitters concerns relate to additional scale of building near the boundary with additional overshadowing and loss of privacy. There will be some additional shadowing, however there would be no additional privacy impacts. The amended plans do not address the concerns of the objectors and the additional bulk and scale of the building close their central courtyard will have amenity impacts. Removal of the tree at the rear was also a concern. Removal of the tree is not warranted or supported by Council.

Any variation to the Development Consent can only be made with the written approval of the Council. Major variations will require a new or amended Development Consent.

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.

Section 4.55 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act, 1979.

**Endorsed for and on behalf of North Sydney Council**

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DATE

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Signature on behalf of consent authority  
GEOFF MOSSEMENEAR  
EXECUTIVE PLANNER