

Erin Maree Hallinan Coyle  
2/1 Moodie Street  
CAMMERAY NSW 2062

D69/19  
KRR(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 69/19/2 – APPROVAL**

**Development Consent Number:** 69/19/2

**Land to which this applies:** 38 Holtermann Street, Crows Nest  
Lot No.: D DP: 401801

**Applicant:** Erin Maree Hallinan Coyle

**Proposal:** Section 4.55(2) application to modify DA 69/19 for various amendments to approved dwelling additions.

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. **69/19** and registered in Council's records as Application No. **69/19/2** relating to the land described as **38 Holtermann Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 September 2019, has been determined in the following manner: -

**1. To amend Conditions A1 and C18, as follows: -**

**Development in Accordance with Plans (Section 4.55 Amendments)**

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent

**DA69/19 Approved Plan List**

Plan No.	Dated	Issue	Title	Drawn by	Received
001	7 March 2019		Existing Site Plan and Analysis	Dixon Projects	13 March 2019
100	7 March 2019		Proposed Site Plan and Analysis	Dixon Projects	13 March 2019

110C	7 March 2019	D8	Proposed Ground Floor Plan General Arrangement Option C	Dixon Projects	13 March 2019
111C	7 March 2019	D7	Proposed First Floor Plan General Arrangement Option C	Dixon Projects	13 March 2019
112	7 March 2019	D6	Proposed Roof Plan General Arrangement	Dixon Projects	13 March 2019
200	7 March 2019	D7	Proposed Front and Rear Elevations	Dixon Projects	13 March 2019
201	7 March 2019	D7	Proposed Side Elevation and Section AA	Dixon Projects	13 March 2019
300	7 March 2019	D7	Proposed Section CC	Dixon Projects	13 March 2019
301	7 March 2019	D5	Proposed Section BB and DD	Dixon Projects	13 March 2019

**DA69/19/2 Approved Plan List**

<b>Plan No.</b>	<b>Dated</b>	<b>Issue</b>	<b>Title</b>	<b>Drawn by</b>	<b>Received</b>
001_S4.55	20 November 2019	D1	Existing Site Plan and Analysis	James Southern	27 November 2019
100_S4.55	20 November 2019	D1	Proposed Site Plan and Analysis	James Southern	27 November 2019
110_S4.55 (A)	4 December 2019	D3	Proposed Ground Floor Plan General Arrangement	James Southern	6 December 2019
111_S4.55 (A)	4 December 2019	D3	Proposed First Floor Plan General Arrangement	James Southern	6 December 2019
112_S4.55 (A)	4 December 2019	D3	Proposed Roof Plan General Arrangement	James Southern	6 December 2019
200_S4.55 (A)	4 December 2019	D2	Proposed Front and Rear Elevations	James Southern	6 December 2019
201_S4.55 (A)	4 December 2019	D2	Proposed Side Elevation and Section AA	James Southern	6 December 2019
300_S4.55 (A)	4 December 2019	D2	Proposed Section CC	James Southern	6 December 2019
301_S4.55 (A)	4 December 2019	D2	Proposed Section BB and DD	James Southern	6 December 2019

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

(Condition Modified by DA69/19/2 approved on 4 March 2020)

**BASIX Certificate**

C18. 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. **A3634427** 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)

(Condition Modified by DA69/19/2 approved on 4 March 2020)

**Reason for approval:**

The proposed modifications are considered to be of minimal environmental impact and are consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modifications do not result in any new material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55 & 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

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

The owners of adjoining properties and the Registry Precinct were notified of the proposed development for a 14-day period, between 17 January and 31 January 2020 in accordance with section 4 of NSDCP 2013. The notification resulted in **no submissions** being received. The public interest is served via the consideration and detailed in this report.

The conditions attached to the original consent for Development Application No. 69/19 by endorsed date of 5 September 2019 still apply.

**ADVISINGS**

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