

Kerry Hollyoak  
PO Box 60  
CAMMERAY NSW 2062

D167/18  
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 167/18/2 – APPROVAL**

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**Development Consent Number:** 167/18/2

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**Land to which this applies:** 39 Cremorne Road, Cremorne Point  
Lot No.: 1, DP: 956779

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**Applicant:** Kerry Hollyoak

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**Proposal:** Section 4.55 (1A) modifications to the approved garage and media room.

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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. **167/18** and registered in Council's records as Application No. **167/18/2** relating to the land described as **39 Cremorne Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 18 October 2018, has been determined in the following manner: -

*1. To modify conditions A1, C1 and G9 the consent namely:*

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

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

Plan No	Issue	Date	Drawn By	Received
DA-01	B	27 Feb 18	KH	5 June 2018
DA-03	C	06 July 18	KH	25 July 2018
DA-05	C	06 July 18	KH	25 July 2018
DA-07	B	27 Feb 18	KH	5 June 2018
DA-09	C	06 July 18	KH	25 July 2018

DA-10	C	06 July 18	KH	25 July 2018
DA-11	C	06 July 18	KH	25 July 2018
DA-13	C	06 July 18	KH	25 July 2018
DA-15	B	27 Feb 18	KH	5 June 2018
DA-16	C	06 July 18	KH	25 July 2018

endorsed with Council's approval stamp, except as modified by highlighting on:

- (a) The following drawings numbered for D167/18/2:

Plan No	Date	Drawn By	Received
CC-04	1/10/2019	Design Laboratory	20 December 2019
CC-05	1/10/2019	Design Laboratory	20 December 2019

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

### Terms of Consent

C1. Approval is granted for the following works shown on the approved drawings:

- (a) Demolition of the existing driveway bridge to Cremorne Road, the removal of existing carport above the existing outbuilding and the removal of an existing staircase to the existing office addition;
- (b) Installation of new balustrades to the edges of the roof of the outbuilding for use as a roof garden with a new spiral staircase to provide access to the new dwelling pathway;
- (c) Removal of a window and a doorway on the western elevation of the existing office addition to the main dwelling and new cladding to the northern and southern elevation of this addition;
- (d) Construction of a two storey building on within the rear building setback between the main dwelling and the Cremorne Road containing a media room on the lower level and a double garage on the upper (street) level;
- (e) Construction of a new entrance to Cremorne Road and a new staircase/pathway connecting the new entrance and the main dwelling;
- (f) A new internal access door through a wall between the new double garage and the existing office within the original dwelling (**D167/18/2**);
- (g) Two (2) new doorways adjacent to the garage door on the northern and southern walls (**D167/18/2**); and
- (h) A new ensuite bathroom within the approved media room (**D167/18/2**).

The proposed kitchenette within the approved media room must be deleted and form no part of this consent.

No approval is granted or implied for other works, both internal and external, within the subject property.

All works must be carried out wholly within the boundaries of the subject site and no encroachment of works onto any other properties.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that the terms of consent are clear.)

### **Compliance with Certain Conditions**

G9. Prior to the issue of any Occupation Certificate, Conditions C1, C2 and C17 must be certified as having been implemented on site and complied with.

(Reason: To ensure that the development is completed in accordance with the requirements of this consent.)

2. *To insert conditions of consent C17 and I2 namely:*

### **Deletion of Kitchenette (D167/18/2)**

C17. The proposed kitchenette within the approved media room must be deleted and form no part of this consent.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that the use of the building to remain as a single occupancy.)

### **Single Occupancy**

I2. Nothing in this consent authorises the use of the premises other than for a single occupancy.

(Reason: To ensure compliance with the terms of this consent.)

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### **Reason for approval:**

The proposed modifications for internal works and the new doorways on the side elevations of the new garage 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 subject to the deletion of the kitchenette inside the approved media room (**Condition C17**) and a condition requiring the use of the subject property as a single occupancy (**Condition I2**) to ensure that the property to remain as a single occupancy.

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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. The proposed doorways comply with the DCP minimum side boundary setback requirement.

The proposed modifications would be consistent with the reasons for granting approval for the original DA subject to the imposition of **Conditions C17 and I2** to ensure that the property to remain as a single occupancy.

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.

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

Notification of the subject application was waived in accordance with Section 3.4.2 of Council's Community Engagement Protocol because the proposal relates to internal changes and two doorways not visible from the adjoining properties so there would be no material impacts for adjoining properties.

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The conditions attached to the original consent for Development Application No. 167/18 by endorsed date of 18 October 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**