

Iain McKernan
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75 Oliver Street
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D197/19
HS1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 197/19/2 – APPROVAL**

Development Consent Number: 197/19/2

Land to which this applies:

52 and 54 Emmett Street, Crows Nest
Lot No.: A, DP: 445243

Applicant:

Iain McKernan

Proposal:

Section 4.55(1A) modifications to delete conditions C5 and C8 from the original consent.

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. **197/19** and registered in Council's records as Application No. **197/19/2** relating to the land described as **52 and 54 Emmett Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 26 August 2019, has been determined in the following manner: -

- *To delete conditions C5 and C8 from the consent.*
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Reason for approval:

The proposed modifications satisfy Section 4.55(1A) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

The proposed deletion of conditions would not result in significant changes to the form, bulk and scale of the approved development.

The proposed modifications to delete conditions would not cause adverse material amenity impacts on the adjoining properties in terms of visual privacy/amenity loss or overshadowing.

In summary, 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.

How community views were taken into account:

The development application, due to the minor nature of the proposal, was not required to be notified nor advertised pursuant to Part A Section 4 of the North Sydney Development Control Plan 2013. The development will not have a material impact on surrounding buildings. The public interest will be served through the assessment of the application against the applicable controls.

The conditions attached to the original consent for Development Application No. 197/19 by endorsed date of 26 August 2019 still apply.

ADVISINGS

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