

Original signed by David Hoy on 2/6/2020

Henry Alexander  
PO Box 357  
CROWS NEST NSW 1585

D431/17  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 431/17/2 – APPROVAL**

**Development Consent Number:** 431/17/2

**Land to which this applies:** 82 Falcon Street, Crows Nest  
Lot No.: B, DP: 377060

**Applicant:** Henry Alexander

**Proposal:** Section 4.55(1A) to modify Consent No 431/17 with changes to windows.

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. **431/17** and registered in Council's records as Application No. **431/17/2** relating to the land described as **82 Falcon Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 28 May 2018, has been determined in the following manner: -

- **To amend Condition A1 and C14 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

DA431/17 Approved Plan List

Plan No.	Dated	Issue	Title	Drawn by	Received
DD101	3 November 2017	A	Demolition Plan	Blake Studios	4 December 2017
DD001	6 May 2018	C	Proposed Site Plan	Blake Studios	6 May 2018
DD110	6 May 2018	C	Proposed Floor Plans	Blake Studios	6 May 2018
DD200	6 May 2018	C	Proposed Elevations	Blake Studios	6 May 2018
DD201	6 May 2018	C	Proposed Elevations	Blake Studios	6 May 2018
DD300	6 May 2018	C	Proposed Section	Blake Studios	6 May 2018

DA431/17/2 Approved Plan List

Plan No.	Dated	Issue	Title	Drawn by	Received
DD110	2 February 2020	C	Proposed Floor Plans	Blake Studios	27 February 2020
DD200	2 February 2020	C	Proposed Elevations	Blake Studios	27 February 2020

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

**BASIX Certificate**

C14. 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. **A298529\_02** 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)

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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.

**Reason for approval:**

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.

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

The modification was not notified. There are no submissions received during the course of the assessment.

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The conditions attached to the original consent for Development Application No. 431/17 by endorsed date of 28 May 2018 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

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER ASSESSMENTS**