

Shaun F D Wolstenholme
39 Hayberry Street
CROWS NEST NSW 2065

D255/20
TH2 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 255/20/2 - APPROVAL**

Development Consent Number: 255/20/2

Land to which this applies: 39 Hayberry Street, Crows Nest
Lot No: 221 DP: 516953

Applicant: Shaun F D Wolstenholme

Proposal: To modify a consent for widening the entry to the garage door and connect two existing dormer 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. **255/20** and registered in Council's records as Application No. **255/20/2** relating to the land described as **39 Hayberry Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 16 November 2020 has been determined in the following manner: -

1. Delete C9 Required Infrastructure Works - Roads Act 1993

~~Required Infrastructure Works - Roads Act 1993~~

~~C9 - Prior to issue of any Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. An application must be made to Council on the "To Satisfy DA Consent Condition" application form with payment of the adopted assessment/inspection fees. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development:~~

- ~~• Construct concrete bund (100 mm high) at the boundary line entirely within the subject property for the full width of the garage opening, to prevent any stormwater egress into the garage;~~

- ~~• reconstruction of the carriageway shoulder will be required, extending out minimum 600 mm from the gutter lip in AC10 – 50 mm thick, adjacent to all new kerb/gutter works;~~
- ~~• The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.~~

~~Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.~~

~~Certifying Authorities must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.~~

~~The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**~~

~~*Note: A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*~~

~~(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)~~

- ~~2. To modify Condition C6 Colours, Finishes and Material (Conservation Area) by deleting reference to the panel lift door as follows:~~

~~Colours Finishes and Material (Conservation Area)~~

- ~~C6. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. The proposed replacement roller shutter door for the widened garage entry is not approved contrary to P5, s1.4.4 'Laneways' of the NSDCP 2013.~~

~~The design of the garage door shall comprise a panel lift door in character with existing garage doors on Emmett Lane and the surrounding Conservation Area.~~

A schedule of finishes, materials and external colours shall 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 fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area.)

Development in accordance with Plans

1. The development being carried out in accordance with drawings numbered

Plan No.	Issue	Date	Drawn by	Received
WD 101	A	09.2020	Brendan Kennedy	19 October 2020
WD 201	A	09.2020	Brendan Kennedy	19 October 2020

The proposed modifications are considered to be generally 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 material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for granting consent to the original development application.

The proposed retention of a roller shutter door has been considered and, in this instance, noting the site restrictions, the scale of the works and the character of the existing laneway a roller shutter door is acceptable not detracting from the significance of the surrounding Holtermann Estate C Conservation Area because there are other examples of roller doors within the laneway.

Reason for approval:

Consideration of the applicant's evidence confirming the site restrictions to accommodate a concrete bund (100 m high) and evidence of no or minimal stormwater egress during periods of heavy rainfall is a satisfactory reason to delete the requirement for a bund at the boundary line entirely within the site for the full width of the garage opening.

Having regard to the provisions of Section 4.55 & 4.15(1) 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 subject application was not notified to adjoining properties and the Hayberry Precinct because the modification does not substantially change the originally approved development, will have minimal environmental impact and not disadvantage owners/occupiers of adjoining land.

The conditions attached to the original consent for Development Application No. 255/20 by endorsed date of 16 November 2020 still apply.

ADVISINGS

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

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)