

Phillip Comfort  
19A Strone Avenue  
WAHROONGA NSW 2076

D30/21  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 30/21/2 – APPROVAL**

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**Development Consent Number:** 30/21/2

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**Land to which this applies:** 9B Huntington Street, Crows Nest  
Lot No.: 442, DP: 880754

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**Applicant:** Phillip Comfort

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**Proposal:** Section 4.55(1A) amendment to Heritage Condition C1 (2).  
Windows at street elevation to be changed from timber  
windows to wide frame aluminum windows

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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. **30/21** and registered in Council's records as Application No. **30/21/2** relating to the land described as **9B Huntington Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 11 May 2021, has been determined in the following manner: -

**1. To amend Condition C1 as follows:**

***Heritage Amendments***

**C1.** *The following amendments are to be made to preserve the significance of the dwelling in the Conservation Area.*

*1. The glass balustrade shall be deleted and replaced with an appropriately designed balustrade of either timber or metal construction;*

*2. ~~That the joinery in the street facing elevation shall be of timber construction.~~*

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*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 protect the character and heritage significance of the of the Holtermann Estate B conservation area)*

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**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.

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

The modification was not notified. Community views have been considered within the context of this modification report and deemed to be acceptable in the circumstances.

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The conditions attached to the original consent for Development Application No. 30/21 by endorsed date of 11 May 2021 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 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**

**19 November 2021**

\_\_\_\_\_  
DATE

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