



Tony Legge  
Legge & Legge Architects Pty Ltd  
Suite LG, 3A, 275 Alfred Street  
NORTH SYDNEY NSW 2060

D4/19  
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 4/19/4 - APPROVAL**

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**Development Consent Number:** 4/19

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**Land to which this applies:** 425-429 Pacific Highway, Crows Nest  
Lot No.: 1 DP: 651865

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**Applicant:** Tony Legge - Legge & Legge Architects Pty Ltd

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**Proposal:** To modify a consent DA4/19 to delete approved rooftop plantroom and basement works, relocation of the condenser units to Level 4 terrace and addition of a new handrail to the parapet wall of Level 4 terrace

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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. **4/19** and registered in Council's records as Application No. **4/19/4** relating to the land described as **425-429 Pacific Highway, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **1 May 2019**, has been determined in the following manner:

**1. To amend Condition A1 of the consent so as to read as follows:**

**A1 Development in Accordance with Plans:**

Plan No.	Revision	Description	Prepared by	Dated
DA102	L	Site Plan	Legge & Legge Architects	30 Aug 2022
DA199A	A	Existing Basement	Legge & Legge Architects	8 Feb 2022
DA204	L	Level 4	Legge & Legge Architects	30 Aug 2022
DA205	L	Roof	Legge & Legge Architects	30 Aug 2022
DA206	L	Section AA	Legge & Legge Architects	30 Aug 2022
DA208	L	South Elevation	Legge & Legge Architects	30 Aug 2022
DA209	L	Pacific Highway (West) Elevation	Legge & Legge Architects	30 Aug 2022
DA210	L	Willoughby Street Elevation	Legge & Legge Architects	30 Aug 2022
DA211	L	North Elevation	Legge & Legge Architects	30 Aug 2022
DA204A	D	Handrail Details	Legge & Legge Architects	30 Aug 2022

Note: Any approved drawings/plans relating to DA004 (Demolition Plan), DA100-DA103 (Ground Floor, Level 1, Level 2, Level 3), DA2005 (Section BB), DA206-DA210 (Glazing Schedule and Colours, Finishes and Material) are unchanged by DA4/19/4.

**2. To delete Condition C2 of the consent.**

**3. To delete Condition C11 of the consent.**

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**Reasons for Approval:**

The proposal involves the modification of a consent to delete approved rooftop plantroom and basement works, relocation of the condenser units to Level 4 terrace and addition of a new handrail to the parapet wall of Level 4 terrace.

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including the NSLEP 2013) have described and detailed throughout this report. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Accordingly, it is recommended that the following conditions are amended in the consent:

- Amend Condition A1 to include revised drawings reflecting the proposed modification
- Delete Condition C2
- Delete Condition C11

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

In accordance with the provisions of Council's Community Participation Plan, the subject application was notified from 12 to 26 August 2022. No submissions were received during this period.

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The conditions attached to the original consent for Development Application No. **4/19** by endorsed date of **1 May 2019** still apply.

**ADVISINGS**

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

**1 September 2022**

\_\_\_\_\_  
DATE

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Signature on behalf of consent authority  
MIGUEL RIVERA  
**SENIOR ASSESSMENT OFFICER**