



Miss Claudia Horna
4/81 Alexander Street
CROWS NEST NSW 2065

R4/22
D234/17
DK4 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 234/17/2 - APPROVAL
SECTION 8.2 REVIEW**

Development Consent Number: 234/17

Land to which this applies: 79 Willoughby Road, Crows Nest
Lot No.: 11, DP: 1160762

Applicant: Miss Claudia Horna, 4/81 Alexander Street, Crows Nest

Proposal: To modify a consent to enable extension of trading hours until
12.00am on Thursday, Friday and Saturday nights

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. **234/17** and registered in Council's records as Application No. **234/17/2** relating to the land described as **79 Willoughby Road, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **12 September 2017**, has been determined in the following manner:

1. To add Conditions I2 and C66 as follows:

Hours of Operation - Trial Period

12. Notwithstanding Condition I1, the approved use may operate between:

Indoor

7.00 am - 10.00 pm (Mon-Wed)

7.00 am - 12.00 am (Thurs-Sat)

7.00 am - 10.00 pm (Sun)

Outdoor

7.00 am - 10.00 pm (Mon-Sun)

for a trial period of twelve months from the date of issue of this consent.

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Compliance with Noise Impact Assessment

C66. The recommendations contained in the noise impact assessment prepared by Broadcast Consulting Pty Ltd dated 19 July 2022, must be implemented during use of the development.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

The proposed modifications are 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 the granted of development consent to the originally approved development and is considered to be acceptable.

Reasons for Approval:

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 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 and 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 notified to adjoining properties inviting comment between 16 November 2022 to 29 November 2022. There were nil (0) submissions in relation to the application.

The conditions attached to the original consent for Development Application No. **234/17** by endorsed date of **12 September 2017** still apply.

ADVISINGS

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

23 November 2022

DATE



Signature on behalf of consent authority
DAMON KENNY
EXECUTIVE ASSESSMENT PLANNER