



El Gringos Tacos Pty Ltd
C/- Mr Grant Cusack
Level 9, 68 Pitt Street
SYDNEY NSW 2000

D259/20
JD6 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 259/20/2 - APPROVAL**

Development Consent Number:	259/20
Land to which this applies:	16 Falcon Street Crows Nest Lot No.: 3, DP: 222176
Applicant:	El Gringos Tacos Pty Ltd
Proposal:	To modify the consent to change the use of existing premises to a food and drink premises, extension of operating hours and associated business identification signage

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. **259/20** and registered in Council's records as Application No. **259/20/2** relating to the land described as **16 Falcon Street Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **8 December 2020**, has been determined in the following manner:

1. Amend condition I1, as follows:

Delete paragraph (3).

NSW Police Conditions

11. The following recommendations by NSW Police are outlined below:

The following Crime Prevention Through Environmental Design (CPTED) treatment options need to be considered for the proposed development in order to reduce opportunities of crime:

- 1) The front windows of business should remain free of clutter and promotional material so as not to restrict sightlines into and out of the premises.
- 2) Staff should be provided with a secure area in which to store their personal effects whilst working.

- ~~3) A security officer should be employed during late night trading to monitor and deter any anti-social patrons and refuse entry to intoxicated persons.~~
- 4) Tills should be positioned out of reach and should front customers to enable staff to maintain vision of the servicing area and beyond.
- 5) Management and staff should be trained in the execution of the emergency control and evacuation plan in emergency situations.
- 6) All recording made by the CCTV system must be stored for at least 30 days and ensure that the system is accessible by at least one member of staff at all times it is in operation, and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector. The CCTV cameras will need to be placed in suitable locations to enhance the physical security and assist in positively identifying an individual, who may be involved in criminal behaviour.
- 7) Wheelchair access should at no time be blocked nor impede access to anyone with a disability.
- 8) The proprietors/management of the premises must take all steps necessary to ensure that no increased noise emissions occur from persons entering or leaving the premises. Management must also ensure the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood and that patrons leave the vicinity in an orderly manner.
- 9) The toilets should be regularly monitored to detect any anti-social behaviour and ensure there are no issues with drug use i.e., if syringes are a problem, then the use of a sharps container should be considered.

If the use is found not to comply with the conditions outlined above, the use must cease immediately until appropriate measures to remedy the breach are implemented to the satisfaction of Council.

(Reason: To ensure the safety of the owners, customers and general community)

2. Amend Condition I11, as follows:

Plan of Management

- I11. The management of the food and drink premise shall be conducted in accordance with the Operational Plan of Management prepared by Corona Projects, dated July 2023, ~~Pty Ltd, received by Council on 21 October 2020~~ except where otherwise amended by the conditions of this consent. ~~One (1) one or more licensed security person is to be employed at the premises between 11.00pm and 2.00am (please refer to Conditions C1, I1, I2 and Condition I10) Thursday, Friday and Saturday.~~

(Reason: To ensure ongoing operation of the food and drink premise is in accordance with the terms of consent)

Reasons for Approval:

This report records the assessment of the proposed modification, to modify conditions of consent as set out below.

No public submissions or objection to the proposal have been received, including from the NSW Police Force.

As detailed, the altered conditions are unlikely to change the environmental or social conditions of the locality or impacts potentially caused by the operation of the small bar/restaurant at the subject premises.

The reasons for the original consent being granted, expressed the opinion that the development will have acceptable impacts and this will not change as a result of modifying the consent.

Approval is recommended.

How community views were taken into account:

As noted the application was notified and no submissions were received.

The conditions attached to the original consent for Development Application No. 259/20 by endorsed date of 8 December 2020 still apply.

ADVISINGS

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

2 November 2023

DATE



Signature on behalf of consent authority
JIM DAVIES
EXECUTIVE PLANNER (ASSESSMENTS)