

MMK Crows Nest Pty Ltd
2901/101 Bathurst Street
SYDNEY NSW 2000

D422/16
(SMC1) (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
(AS AMENDED)**

**Notice to Applicant of Determination of Request
to Modify a Development Consent**

Pursuant to Section 96 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **422/16** and registered in Council's records as Application No. **422/16/3** relating to the land described as **41-49 Atchison Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 1 November 2017, has been determined in the following manner:-

(A) To **modify** the following conditions so as to read as follows:

Allocation of Spaces

G28. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

39	Residential
5	Residential – Visitors (including 1 x Visitor/car wash bay)
Incl. 6	Accessible
And 1	Loading/unloading bay adjacent Albany Lane

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site; to include the latter paragraphs of the standard condition erroneously omitted from the original consent)

Allocation of Spaces

I5. The allocation of Carparking spaces within the development must be maintained at all times in accordance with the terms of this consent. The allocation of spaces must be maintained in accordance with the following table:

39	Residential
5	Residential – Visitors (including 1 x Visitor/car wash bay)
Incl. 6	Accessible
And 1	Loading/unloading bay adjacent Albany Lane

Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site; to include the latter paragraphs of the standard condition erroneously omitted from the original consent)

Allocation of Parking and Visitor Parking

K5. Car-parking provided must only be used in conjunction with the units and tenancies contained within the development. Any carparking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

The allocation of spaces must be maintained in accordance with the following table:

39	Residential
5	Residential – Visitors (including 1 x Visitor/car wash bay)
Incl. 6	Accessible
And 1	Loading/unloading bay adjacent Albany Lane

Visitor parking facilities and vehicle loading/unloading bay adjacent to Albany Lane must be designated as common property on the Strata Plan. Visitor parking and/or loading facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors and/or for purpose of loading/unloading in respect of the vehicle bay.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

The conditions attached to the original consent for Development Application No. 422/16 by endorsed date of 1 November 2017 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Susanna Cheng**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 97 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (b) Pursuant to Section 96AB, an applicant is able to request Council to review its determination. An application for a review under Section 96AB 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 81A(2) (a) of the Act.

- (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b1)(i) 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 81A(2)(c) 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 96 of the Environmental Planning & 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 96 of the Environmental Planning & Assessment Act.

DATE

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