

O'Keefe Architects  
5/1 Rawson Street  
NEUTRAL BAY NSW 2089

D296/16  
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 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. **296/16** and registered in Council's records as Application No. **296/16/2** relating to the land described as **234 West Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 December 2016, has been determined in the following manner: -

(A) To **add** the following condition:

**Development in Accordance with Plans (S4.55 Amendments)**

A4. The development being carried out in accordance with plans identified in Condition **A1** of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown "clouded" in the following drawings:

<b>Plan No.</b>	<b>Rev.</b>	<b>Issue</b>	<b>Title</b>	<b>Drawn by</b>	<b>Received</b>
DA 03	2	S96	Demolition Plan + Site/Roof Plan	Paul O'Keefe Architect	25/5/18
DA 04	2	S96	Ground + First Floor Plan	Paul O'Keefe Architect	25/5/18
DA 05	2	S96	Elevations / Section	Paul O'Keefe Architect	25/5/18
DA 06	2	S96	Sections BB + CC	Paul O'Keefe Architect	25/5/18

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

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

**External Finishes & Materials**

A3. External finishes and materials must be in accordance with the submitted Schedule of Colours & Finishes in drawing DA05 (Rev.2) Issue S96 dated 4/5/18, prepared by Paul O’Keefe Architect and received by Council on 25/5/18, unless otherwise modified by Council in writing.

(Reason: To be sympathetic to the character of the conservation area)

**Obtain Driveway Crossing Permit under S.138 Roads Act 1993**

C10. Prior to the issue of the Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works **permit** to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a ‘*Vehicular Access Application*’ form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant’s Civil Engineer to verify design details and enable permit issue. The civil design drawings shall detail **the following infrastructure construction requirements of Council in relation to the consent:**

- a) The proposed vehicular access ways shall comply with AS 2890.1 and Council’s current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The width of the vehicular layback shall be maximum 3.5m (including the wings).
- c) The vehicular laybacks shall be set square to the kerb.
- d) The property boundary levels shall be set no more than 120 mm above the existing gutter levels at any point of driveway crossing.
- e) Alignment levels at the boundary have an important impact on the proposed levels for new driveway. No work should start until first obtaining boundary alignment levels from Council. Council has the authority to remove any unauthorised works at the cost of the property owner.
- f) **The Certifying Authority must ensure that the internal property levels at boundary matches councils boundary levels.**
- g) The gutter levels and road shoulder levels in Thomas Lane shall stay unchanged.
- h) The kerb gutter, and 600 mm road shoulder wide- strip, adjacent to all new layback and gutter works, on Thomas Lane shall be reconstructed, to ensure uniformity in the road reserve.
- i) Any twisting of driveway access to ensure vehicles do not scrape shall occur entirely within the subject property.
- j) All inspection openings, utility services shall be adjusted to match the proposed driveway levels and location.

- k) The design detail has to be provided with **vehicular access application** and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- l) A longitudinal section along the footpath property boundary at a scale of 1:50 is required and shall include all changes of grade and levels, **both** existing and proposed.

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

### **BASIX Certificate**

C17. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. (747094S\_03) for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. 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 ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

### **Landscaping**

G8. The external areas indicated in the colour grey in drawing DA 04 (Revision 2) (Issue S96) and the central lightwell shall be planted with soft landscaping prior to the issue of any Occupation Certificate. The central internal lightwell/courtyard may include unit pavers, however, must be predominantly soft landscaping/groundcover(s).

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Landscape area compliance and landscape amenity)

**Required Tree Planting**

G10. On completion of works and prior to the issue of an Occupation Certificate trees in accordance with the schedule hereunder must be planted as follows:

Tree Species	Location	Pot size
1 x Deciduous or evergreen tree with a minimum mature height of 5 metres (e.g. <i>Japanese Maple, Magnolia Heptapeta</i> )	South western corner of the site, set back at least 1m from the rear and side boundaries	45L (min)

(Reason: To provide an appropriate landscaped setting and amenity)

**Soft Landscape Areas**

I2. The areas referred to in Condition **G8 Landscaping** of this Consent shall be planted and maintained with soft landscaping in accordance with this consent.

(Reason: Landscape area compliance and landscape amenity)

The conditions attached to the original consent for Development Application No. 296/16 by endorsed date of 7 December 2016 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 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. 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 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 Certifying Authority 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 & 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 & Assessment Act.

---

DATE

---

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