

Original signed by: Kim Rothe Dated: 26/8/2019

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

D422/16
KRR(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 422/16/4 – APPROVAL**

Development Consent Number: 422/16

Land to which this applies: 41-49 Atchison Street, Crows Nest
Lot No.: A, DP: 399283

Applicant: MMK Crows Nest Pty Ltd

Proposal: Modify Condition C15 of DA 422/16 in regards to increasing the height of the front fence to Atchison Street and Albany Lane and addition of services.

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. **422/16** and registered in Council's records as Application No. **422/16/4** 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: -

1. To insert Condition A5 of the consent and insert in lieu thereof the following new condition namely:

Development in Accordance with Plans (S4.55 Amendments)

- A5. 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 in colour on:

DA422/16/4 Approved Plan References

Plan No.	Dated	Issue	Title	Drawn by	Received
10152-DA012	28 May 2019	I	Ground Floor Plan	Nettleton Tribe	18 June 2019

Plan No.	Dated	Issue	Title	Drawn by	Received
10152-DA021	000	H	Elevations North & South	Nettleton Tribe	18 June 2019

except as amended by the following conditions and this consent.

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

2. To modify Condition C51 as follows:

Height of Fences

C51. Fencing shall comply with the following:

- (a) The front fences to apartment units G01, G06, G07 & G08 fronting onto and in alignment with Atchison Street shall not exceed a height of 1.5m above the finished level of the front **courtyards except where modified in the approved plans noted under Condition A5 DA422/16/4;** and
- (b) The front fences to apartment units G02, G03, G04 & G05 fronting onto and in alignment with Albany Lane shall not exceed a height of 1.5m above the finished level of the courtyards.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the above.

(Reason: Street and laneway amenity; clarify consent)

Reason for approval:

The proposed development as modified is considered to be substantially the same development as approved. The development application as modified has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013.

The development will maintain residential amenity on site with no material adverse impacts on adjoining properties, and will not adversely impact on the streetscape. All other issues identified in the report have been found to be either acceptable or able to be managed via the as imposed conditions of development consent.

Having regard to the provisions of Section 4.15 of the *Environmental Planning & Assessment Act, 1979*, the application is considered to be satisfactory and therefore, can be approved.

How community views were taken into account:

The application was notified and no submissions were received by Council raising concern with the application. Notwithstanding this, the application was assessed having regard for the potential impacts arising from the increase in height for the fence and was found to be acceptable in the circumstances.

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 **Kim Rothe**. 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 & 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.

Endorsed for and on behalf of North Sydney Council

DATE

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