

118 Alexander Street Pty Ltd  
C/- Architecture Urbaneia Pty Ltd  
Attention: Mo Chehelnabi  
1/53 Hume Street  
CROWS NEST NSW 2065

D90/16  
GJY (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 90/16/2 – APPROVAL**

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**Development Consent Number:** 90/16/2

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**Land to which this applies:** 118 Alexander Street, Crows Nest  
Lot No.: 100, DP: 700092

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**Applicant:** 118 Alexander Street Pty Ltd

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**Proposal:** modification of consent to demolish existing buildings  
and construct a 4 storey mixed use development with  
basement parking and a rooftop communal room

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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. **90/16** and registered in Council's records as Application No. **90/16/2** relating to the land described as **118 Alexander Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 October 2016, has been determined in the following manner: -

**1. Conditions A1, A4, B1, C11, C13, G14, H, I2 to be amended as follows:**

**Development in Accordance with Plans/documentation**

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Title	Drawn by	Received
A100	B	Basement 2	Architecture Urbaneia	20/7/16
A101	J	Basement	Architecture Urbaneia	20/7/16
A102	J	Ground Floor	Architecture Urbaneia	20/7/16

A103	J	Level 1	Architecture Urbaneia	20/7/16
A104	I	Level 2+3	Architecture Urbaneia	20/7/16
A105	J	Common Roof Top	Architecture Urbaneia	7/10/16
A150	H	Long Section	Architecture Urbaneia	20/7/16
A151	H	Cross Section	Architecture Urbaneia	7/10/16
A152	C	Cross Section (Lobby Area)	Architecture Urbaneia	7/10/16
A160	H	North Elevation	Architecture Urbaneia	7/10/16
A161	H	East & West Elevations	Architecture Urbaneia	20/7/16
A180	D	Material Finishes	Architecture Urbaneia	7/10/16
A400	G	Adaptable Unit	Architecture Urbaneia	20/7/16
L/01	-	Landscape Plan - Ground & Level 1	ATC a total concept	20/7/16
L/02	-	Landscape Plan - Roof Top Garden	ATC a total concept	20/7/16
L/03	-	Irrigation Plan - Level 1 & Roof Top Garden	ATC a total concept	20/7/16
L/04	-	Landscape Specification Notes and Details	ATC a total concept	20/7/16
16MB6986/C01 1 of 2	C	Civil Plan Sheet 1	United Consulting Engineers	26/9/16
16MB6986/C02 2 of 2	B	Civil Plan Sheet 2	United Consulting Engineers	20/7/16
16MB6986/D01 1 of 3	B	Level 1, 2, 3, Roof Level Drainage Plans	United Consulting Engineers	20/7/16
16MB6986/D02 2 of 3	B	Ground Floor & Basement Drainage Plan	United Consulting Engineers	20/7/16
16MB6986/D03 3 of 3	B	Ground Floor & Basement Drainage Plan	United Consulting Engineers	20/7/16

All as amended by s.4.55 modification DA90/16/2 and the following plans:

Plan No.	Issue	Title	Drawn by	Received
A.100	B	Basement 2	Architecture Urbaneia	21/6/19
A.101	B	Basement 1	Architecture Urbaneia	21/6/19
A.102	B	Ground Level	Architecture Urbaneia	21/6/19
A.103	B	Level 1	Architecture Urbaneia	21/6/19
A.104	B	Level 2+3	Architecture Urbaneia	21/6/19
A.105	C	Common Rooftop	Architecture Urbaneia	21/6/19
A.150	B	Long Section A-A	Architecture Urbaneia	21/6/19
A.151	C	Cross Section BB	Architecture Urbaneia	21/6/19
A.152	C	Cross Section (Lobby Area)CC	Architecture Urbaneia	21/6/19
A.160	B	North Elevation	Architecture Urbaneia	21/6/19
A.161	C	East & West Elevation	Architecture Urbaneia	21/6/19
A.2103	A	Detail Wall Section	Architecture Urbaneia	23/7/19

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

### Amended Plans

- A4. The landscape plans and all engineering plans referred to in Condition A1 are to be amended to be consistent with the architectural plans approved under modification application DA90/16/2.

The architectural plans and elevations are to be amended to ensure that there are no encroachments beyond the site boundaries (with the exception of the footpath awnings to Alexander Street and Albany Street)

Plans and/or details clearly demonstrating the above are to be provided to the Certifying Authority for approval prior to issue of any Construction Certificate.

(Reason: Consistency of plans and avoidance of encroachments)

**Construction Management Program – Local Traffic Committee Approval**

B1. A Construction Management Program prepared by a suitably qualified and experienced traffic consultant must be submitted and approved in writing by North Sydney Traffic Committee **PRIOR TO THE ISSUE OF ANY Construction Certificate**. Any use of Council property will require appropriate approvals prior to any work commencing. At a minimum, the Construction Management Program must specifically address the following matters:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
  - i. Dedicated temporary construction site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways;
  - ii. The proposed signage for pedestrian management to comply with the relevant Australian Standards, including pram ramps;
  - iii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
  - iv. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee);
  - v. Locations of hoardings proposed;
  - vi. Location of any proposed crane standing areas;
  - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
  - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
  - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.
- c) The proposed phases of works on the site, and the expected duration of each phase.
- d) How access to neighbouring properties will be maintained at all times and the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of process.
- e) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials.
- f) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer and must not involve any permanent or temporary encroachment onto Councils property.

- g) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of “B” class hoardings over footpaths and laneways.
- h) A Waste Management Plan. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.

All traffic control work and excavation, demolition and construction activities must be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved Program. A certificate of compliance with this condition must be obtained from Council’s traffic engineers. The certificate and the approved Construction Management Program must be submitted as part of the documentation lodged with the application for approval of a construction certificate. A copy of the approved Construction Management Program and any conditions imposed on that Program, must be kept on the site at all times and made available to any officer of Council upon request.

Notes:

- 1) North Sydney Council’s adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction Management Plan be lodged with Council as early as possible, as a minimum six (6) weeks notice is required to refer items to the Traffic Committee.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner’s property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

**Basement Car park to comply with relevant standards**

C11. The basement parking layout must comply with all requirements of Australian Standard AS2890.1. Certification from a suitably qualified and practicing Civil Engineer that the basement parking design will comply with the requirements of the Australian Standard must be provided to the Certifying Authority for approval prior to issue of any Construction Certificate.

(Reason: To ensure the basement layout complies with relevant standards)

**Driveway Crossing and associated works permit**

- C13. Prior to the issue of any 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 must detail **the following infrastructure construction requirements of Council in relation to the consent:**
- a) The proposed vehicular access ways must 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 existing layback crossing on Willoughby Lane must be reconstructed as a new layback crossing, upright kerb, gutter and footpath.
  - c) **The length of vehicular layback shall be 4.0m (including the wings)**
  - d) The vehicular layback must be set square to the kerb.
  - e) The crossing (between the layback and the property boundary) shall be placed perpendicularly to the boundary and on a single straight grade, falling to the back of the layback.
  - f) The road reserve must be constructed in accordance with Council's current documents:
    - Infrastructure Specification
    - Public Domain Style Manual and Design Codes
    - Vehicular Access Application Guidelines and Specification.
  - g) The minimum of **1.0 m** clearance between the wing (of proposed layback) and the relocated **power pole** must be implemented. Relocation of existing power pole on Willoughby Lane must be addressed within plans suitable for construction issue purposes and submitted with all other details required for approval of Vehicular Access Application.
  - h) Tree root barrier to be added along the back of all new kerb, where an existing tree is present.
  - i) Alignment levels at the boundary have an important impact on the proposed levels for new driveway. No work on internal parking area should start until first obtaining boundary alignment levels from Council (after inspection of formwork for new driveway). Council has the authority to remove any unauthorized works at the cost of the developer.

- j) The Certifying Authority must ensure that the internal property levels at boundary matches councils approved boundary levels.
- k) The boundary footpath levels must be reconstructed to achieve 2% cross fall from the alignment to top of kerb and shall not be altered unless agreed to by Council.
- l) The gutter levels and road shoulder levels must stay unchanged.
- m) The kerb, gutter and road shoulder strip (rectangular), adjacent to all new layback and gutter works, must be reconstructed across the entire site frontage in Alexander Street, Albany Street and Willoughby Lane, to ensure uniformity in the road reserve.
- n) The footpath must be reconstructed across the entire site frontage in Alexander Street, Albany Street and Willoughby Lane and is to be transitioned for at least 1.0 m from the side boundaries to ensure uniformity on the footpath.
- o) Any twisting of driveway access to ensure vehicles do not scrape must occur entirely within the subject property.
- p) All inspection openings, utility services must be adjusted to match the approved footpath and driveway levels and location.
- q) 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@A3. 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.
- r) A longitudinal section along the gutter line of Willoughby Lane at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels.
- s) A longitudinal section along the footpath property boundary at a scale of 1:50 is required, including FFL levels along the center-line of each access point to the building.
- t) The sections shall show the calculated clearance to the underside of any overhead structure.
- u) A swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the parking spaces in accordance with AS 2890.1:2004 "Off Street Parking".

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 (*'Vehicular Access Application'*) issued by Council is obtained prior to its issue, is referenced on and accompanies the issued Construction Certificate.

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

### **Allocation of Spaces**

- G14. 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:

Ten (10) - Residential  
Two (2) - Retail

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.

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

### **First Use of Premise – Further consent required**

- I1. A separate development application for the fitout and use of the two (2) non-residential tenancies must be submitted to and approved by Council prior to that fitout or use commencing.

(Reason: To ensure development consent is obtained prior to uses commencing)

### **Allocation of Spaces**

- I2. 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:

Ten (10) - Residential  
Two (2) - Retail

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)

2. *Condition 13 is to be deleted.*
3. *Condition 14 is to be added as follows:*

**No habitable use of balconies**

14. The winter garden balconies shall retain a hard tile floor and shall not be finished or altered in such a way as to enable the use of the space as a bedroom or other habitable room. This requirement is to be incorporated into a special by-law which is to be included on the submission of the Strata Plan to NSW Land Registry Services.

(Reason: To retain the approved private open space for apartments)

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**Reason for approval:**

The proposed development remains an appropriate infill mixed use development on a small site of 389.7m<sup>2</sup>. The design was previously refined to address concerns raised by Council and the Design Excellence Panel and the proposal as modified is considered to be satisfactory, subject to conditions of consent. Additionally, the proposal remains substantially the same development and is not inconsistent with the reasons for the grant of consent by the NSIPP.

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**How community views were taken into account:**

The owners of adjoining properties and the Holterman Precinct were notified of the proposed modifications on 5/7/19. One submission was received, from the Holtermann Precinct, which was addressed in the delegated report.

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The conditions attached to the original consent for Development Application No. 90/16 by endorsed date of 5 October 2016 still apply.

**ADVISINGS**

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

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Signature on behalf of consent authority  
**GEORGE YOUHANNA  
EXECUTIVE PLANNER**