

Office Build Solutions
Attention: Ian Terley
93 Falcon Street
CROWS NEST NSW 2065

D97/18
MD1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 97/18/2 – APPROVAL**

Development Consent Number: 97/18/2

Land to which this applies: 93 Falcon Street, Crows Nest
Lot No.: B, DP: 437984

Applicant: Office Build Solutions

Proposal: Modify DA 97/18 for various modifications to approved dwelling additions including deck extension, shade sail above car stand area, new air conditioning condenser and various other works

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. **97/18** and registered in Council's records as Application No. **97/18/2** relating to the land described as **93 Falcon Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 9 April 2018, has been determined in the following manner: -

1. To insert the following new conditions:

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 in colour on drawings titled

- (a) S96 - New Ground Floor Plan, revision C, dated 25.09.2019,
- (b) S96 - New Roof Plan, revision C, dated 03.09.2019,
- (c) S96 - Eastern Elevation, revision C, dated 25.09.2019,
- (d) S96 - North and South Elevation, revision C, dated 25.09.2019, and

- (e) S96 - Landscape Floor Plan, revision C, dated 25.09.2019

drawn by I.T., and received by Council on 26 September 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)

Vehicle Crossing Relocation Not Approved

A5. The vehicle crossing location shown on the drawings titled

- (a) S96 - New Ground Floor Plan, revision C, dated 25.09.2019,
(b) S96 - New Roof Plan, revision C, dated 03.09.2019, and
(c) S96 - Landscape Floor Plan, revision C, dated 25.09.2019

drawn by I.T., and received by Council on 26 September 2019 is not approved. The vehicle crossing constructed must be in accordance with the original development consent dated 15/08/2018.

- (Reason: To ensure that the accessible parking space (including its adjoining bay) are retained)

Air Conditioners in Residential Premises

C25. The use of any air conditioner installed on the premises must comply with the requirements of the *Protection of the Environment Operations (Noise Control) Regulations 2008* and *State Environmental Planning Policy (Infrastructure) 2007* and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
- (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
(ii) before 7.00am or after 10.00pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

- (Reason: To maintain residential amenity)

Noise and Vibration Impact

12. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

2. Modify condition C12, as follows:

Obtain Driveway Crossing Permit under S.138 Roads Act 1993

- C12. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under S.138 of the Roads Act, 1993, an application must be made to Council on the '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 issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum;

- a) the vehicular access way must comply with AS 2890.1: Off-Street Car Parking, AS 2890.6: Off-Street Parking for People with Disabilities 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 maximum width of the vehicular layback must be 3.5 metres (including the wings);
- c) the vehicular layback must be set square to the kerb;
- d) the gutter levels must remain as existing and shall not be altered;
- e) the back of the layback shall be set 100mm above the existing gutter levels;
- f) the crossing (between the layback and the property boundary) shall be designed at a minimum single straight grade of 4.5%, falling to the back of the layback;
- g) The hardstand parking space shall be designed at a length of 5.4m by 2.4m wide. The remaining hardstand area to the side of the parking space, which provides space for those with physical impairments to load into and unload out of a vehicle in the parking space, shall measure 5.4m long by 2.4m wide;
- h) The hardstand parking space and related walking and wheelchair unloading area shall be designed to comprise a firm plane surface with a fall not exceeding 1:40 in any direction and shall have a slip-resistant surface;
- i) the works will require reconstruction of the carriageway shoulder extending out 600mm from the gutter lip in AC10 - 50mm thick, adjacent to all new kerb/gutter and layback works;

- j) any twisting of driveway access must occur entirely within the subject property;
- k) all inspection openings, utility services must be adjusted to match the proposed driveway levels;
- l) sections along centre-line and extremities are required at a scale of 1:50 to be taken from the centre-line of the roadway through to the parking area itself and must include all changes of grade and levels both existing and proposed;
- m) a longitudinal section along the gutter line at a scale of 1:50 showing how it is intended to blend the vehicular crossing with the existing kerb and gutter;
- n) a longitudinal section along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line is required;
- o) the sections must show the calculated clearance to the underside of any overhead structure;

The permit must be granted by Council prior to the issue of any Construction Certificate.

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

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

3. Delete conditions C5, C13, C19, G2(b), G10 and G12.

Reason for approval:

Council received one submission raising concerns with air conditioning placement and noise, pergola overshadowing, and shade sail size and overshadowing.

The air conditioning is not directly opposite any neighbouring windows, and consent conditions can limit its noise. The pergola addition's overshadowing is negligible and will not to unreasonably affect neighbouring solar access. The shade sail would be lightweight in appearance and will not overshadow the neighbouring principal private open space.

How community views were taken into account:

The owners of adjoining properties and the local community precinct committee were notified of the proposed development for a 14-day period in accordance with section A4 of NSDCP 2013. The notification resulted in one submission which was addressed in the delegated report.

The conditions attached to the original consent for Development Application No. 97/18 by endorsed date of 9 April 2018 still apply.

ADVISINGS

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