

Armada Crows Nest Pty Ltd  
Suite 4, 139 Alexander Street  
CROWS NEST NSW 2065

D430/17  
GM (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 430/17/4 – APPROVAL**

**Development Consent Number:** 430/17/4

**Land to which this applies:** 137-139 Alexander Street, Crows Nest  
Lot No.: 2, DP: 508127

**Applicant:** Armada Crows Nest Pty Ltd

**Proposal:** To modify consent for demolition of the existing buildings and construction of a four (4) storey mixed use development with basement parking with regard to internal changes; number of apartments and extension to roof top plant area.

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. **430/17** and registered in Council's records as Application No. **430/17/4** relating to the land described as **137-139 Alexander Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 1 August 2018, has been determined in the following manner: -

*To delete conditions C36, C37, C38 and G12 and add the following new conditions namely:*

**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 on:

Plan No.	Issue	Title	Drawn by	Received
DA100	J	Basement 2-S4.55	Architecture Urbaneia	20 November 2019
DA100a	J	Basement 1-S4.55	Architecture Urbaneia	20 November 2019

DA101	P	Ground Floor S4.55	Architecture Urbaneia	20 November 2019
DA102	M	Level 1-S4.55	Architecture Urbaneia	20 November 2019
DA103	O	Level 2-S4.55	Architecture Urbaneia	20 November 2019
DA104	M	Level 3-S4.55	Architecture Urbaneia	20 November 2019
DA106	N	Roof-S4.55	Architecture Urbaneia	20 November 2019
DA111	J	Section A	Architecture Urbaneia	20 November 2019
DA112	F	Section B	Architecture Urbaneia	20 November 2019
DA113	K	Section C	Architecture Urbaneia	20 November 2019
DA150	O	North Elevation	Architecture Urbaneia	20 November 2019
DA152	L	East/West Elevation	Architecture Urbaneia	20 November 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)

### Section 7.11 Contributions

C36. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 94 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

<b>A</b>	<b>B (\$)</b>
Administration	Nil
Child Care Facilities	Nil
Community Centres	\$1,566.35
Library Acquisition	\$219.65
Library Premises & Equipment	\$724.60
Multi-Purpose Indoor Sports Facility	Nil
Open Space Acquisition	\$33,027.13
Open Space Increased Capacity	\$65,465.45
Olympic Pool	Nil
Public Domain Improvements	Nil
Traffic Improvements	\$3,477.27
<b>The total contribution is</b>	<b>\$104,480.45</b>

The contribution MUST BE paid prior issue of any Construction Certificate.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution. A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

**Security Deposit/ Guarantee Schedule**

C37. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

<b>Security deposit/ guarantee</b>	<b>Amount (\$)</b>
Street Tree Bond (on Council Property)	\$12,500.00
Engineering Construction Bond	\$20,000.00
<b>TOTAL BONDS</b>	<b>\$32,500.00</b>

Note: The following fees applicable

<b>Fees</b>	<b>Amount (\$)</b>
Section 7.11 contribution	\$104,480.45
<b>TOTAL FEES</b>	<b>\$104,480.45</b>

(Reason: Compliance with the development consent)

**BASIX Certificate**

C38. 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. 875189M\_06 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)

**Compliance with Acoustic Report**

C39. All recommendations contained in the acoustic report prepared by Acoustic Logic Consultancy Pty Ltd, dated 7 November 2019, must be implemented during construction and use of the development. The acoustic screen around the air conditioning condensers shall be extended to along the boundary with No. 133 Alexander Street if required to meet the noise emission criteria.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australasian Acoustical Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Principal 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 maintain an appropriate level of amenity for adjoining land uses)

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**Landscaping**

G12. The landscaping shown in the approved landscape plans numbered LAPD 101/001, LA CD 201/01 and LA CD 202/03, prepared by Black Beetle and received by Council on 20 November 2019, with any amendments required by condition, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

**Noise Certification**

G15. Prior to the issue of any Occupation Certificate, a certificate from an appropriately qualified acoustical consultant, eligible for membership of the Association of Australasian Acoustical Consultants, is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent herein. Validation is required confirming that all plant complies with the conditions of this consent, with testing carried out when all equipment is operating at full capacity at 9pm and 3am, when the potential for receiver disturbance is high. If the plant is found not to comply with the noise and vibration conditions, compliance must be achieved prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance with acceptable noise levels to maintain the amenity of adjoining land uses)

**Certification for Mechanical Exhaust Ventilation**

G16. Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to, and approved by, the Certifying Authority.

(Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant)

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**Reason for approval:**

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

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

The owners of adjoining properties and the Holtermann Precinct were notified of the proposed development from 6 December 2019 to 13 January 2020. The notification resulted in two submissions which were addressed in the delegated report.

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The conditions attached to the original consent for Development Application No. 430/17 by endorsed date of 1 August 2018 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  
GEOFF MOSSEMENEAR  
TEAM LEADER ASSESSMENTS