

Anton R. Heckendorf
14 Hayberry Street
CROWS NEST NSW 2065

D382/17
MD1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 382/17/3 – APPROVAL**

Development Consent Number: 382/17

Land to which this applies: 14 Hayberry Street, Crows Nest
Lot No.: 8, SEC: 2: DP: 1265

Applicant: Anton R. Heckendorf

Proposal: New entry to western side of building, new accessible ramp, other external and internal modifications and reconfiguration.

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. **382/17** and registered in Council's records as Application No. **382/17/3** relating to the land described as **14 Hayberry Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 31 May 2018, has been determined in the following manner: -

1. To insert the following conditions:

Development in accordance with Plans (S4.55 Amendments)

A1B. The development must be carried out in accordance with:

- (a) Condition A1 of the consent dated 01/06/18 and endorsed with Council's approval stamp, and
- (b) Condition A1A of the consent dated 06/05/19 and endorsed with Council's approval stamp

except as modified by the following plans and, further, except where amended by the conditions contained within the subject consent.

Plan No.	Issue	Dated	Title	Drawn by	Received
1-11	C	12.02.20	Demolition plan ground level	SJ Wonj Consulting	17.02.2020
1-12	B	12.12.19	Proposed level 1 demolition plan	SJ Wonj Consulting	17.02.2020
1-21	C	12.02.20	Proposed ground level floor plan	SJ Wonj Consulting	17.02.2020
1-22	C	12.02.20	Proposed level 1 floor plan	SJ Wonj Consulting	17.02.2020
1-23	B	12.12.19	Proposed roof plan	SJ Wonj Consulting	17.02.2020
2-01	B	12.12.19	Proposed north / south elevation	SJ Wonj Consulting	17.02.2020
2-02	B	12.12.19	Proposed east / west elevations	SJ Wonj Consulting	17.02.2020
2-03	B	12.12.19	Proposed section elevation E-E	SJ Wonj Consulting	17.02.2020
3-01	C	12.02.20	Details - Proposed ramp walkway and entry	SJ Wonj Consulting	17.02.2020
3-02	C	12.02.20	Details - Proposed ramp walkway and entry	SJ Wonj Consulting	17.02.2020

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

Ausgrid Requirements

A5. The design submission must comply with relevant Ausgrid Network Standards, available at <https://www.ausgrid.com.au/ASPs-and-Contractors/Technical-documentation/Network-Standards>, and Safe Work NSW Codes of Practice for construction works near existing electrical assets.

The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Note: Should you have any enquiries, please contact Ausgrid at Development@ausgrid.com.au

(Reason: To comply with Ausgrid requirements)

Provision of Accessible Paths of Travel

C19. Access from the pedestrian entry to the premises and access throughout the building is to be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and *Disability (Access to Premises – Buildings) Standards 2010*. 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.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

Dilapidation Report Damage to Public Infrastructure

C20. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Work Zone

C21. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Required Infrastructure Works – Roads Act 1993

C22. Prior to issue of any Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. An application must be made to Council on the "To Satisfy DA Consent Condition" application form with payment of the adopted assessment/inspection fees. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development:

Road Works

- (a) Construction of a new kerb ramp in Hayberry Lane is to be constructed and must align with the proposed access ramp;
- (b) Construction of a fully new concrete footpath is required across the entire site frontage in Hayberry Lane. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line. The footpath shall be designed (at a single straight grade of 3% falling to the top of kerb) so that it is uniform without showing signs of dipping or rising particularly at entrances;
- (c) Construction of a new kerb/gutter is required in Hayberry Lane. The kerb/gutter shall extend from the new kerb ramp and marry into the existing kerb/gutter. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line;
- (d) Reconstruction of the carriageway shoulder will be required, extending out 600mm from the gutter lip in AC10 - 50mm thick, adjacent to all new kerb/gutter works.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Certifying Authorities must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the *Roads Act 1993*.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Public Domain Style Manual for Local/Residential Areas, Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

Note: A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

Stormwater Disposal

C23. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the BCA and current plumbing standards and guidelines. Plans and specifications which comply 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 appropriate provision for disposal and stormwater management arising from the development)

Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C24. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$3,000.00 to be held by Council for the payment of cost for any/all of the following:

- (a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- (b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent
- (c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Fence and gate

C25. The proposed fence, sliding fence and gate along the western, side boundary that are shown in green on the Proposed East / West Elevations plan must be deleted. 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 retain the character of this part of the Holtermann Estate C Conservation Area)

Council Inspection of Public Infrastructure Works

E20. During the works on public infrastructure reverting to Council's care and control, Council's development engineer must undertake inspections of the works at the following hold points:

- (a) Formwork for kerb/gutter and kerb ramp.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Developer's Cost of Work on Council Property

E21. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

Utility Services

G9. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

2. *To delete conditions C15 and C16 of the consent dated 01/06/18 and insert in lieu thereof the following new conditions:*

Section 7.11 Contributions

C15A. 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.

A	B (\$)
Administration	9.28
Child Care Facilities	22.64
Community Centres	39.31
Library Acquisition	4.62
Library Premises & Equipment	14.03
Multi-Purpose Indoor Sports Facility	5.31
Open Space Acquisition	3,993.08
Open Space Increased Capacity	7,914.27
Olympic Pool	Nil
Public Domain Improvements	Nil
Traffic Improvements	508.61
Affordable Housing	Nil
The total contribution is	\$12,528.07

The contribution MUST BE paid prior to the 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

(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

C16A. 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:

Security deposit/ guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$500.00
Footpath Damage Bond	\$3,000.00
TOTAL BONDS	\$3,500.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

The application has been assessed against the *Environmental Planning and Assessment Act 1979*, *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013*.

The application does not propose any floor area additions or new or increased noise, privacy or sunlight impacts upon neighbouring buildings or the public domain. The proposed internal modifications will not affect site heritage significance.

Reason for approval:

The proposed fencing will not obscure the primary façade of the building or affect its heritage significance. The proposed ramp discernibly will not affect the setting of the item, and the proposed external door is not in the signification portion of building. The application does not propose any changes to site or neighbouring vegetation.

The proposal is consistent with the reasons of approval of DA 381/17 and satisfies Section 4.55 of the Act.

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. The notification resulted in no submissions. Standard conditions can adequately address any potential, unreasonable adverse impacts to the locality and ensure the protection of the public interest.

Having regard to the provisions of Section 4.15 of the Act, the application is considered to be satisfactory and therefore can be approved.

The conditions attached to the original consent for Development Application No. 382/17 by endorsed date of 31 May 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)