

Gavin Ng
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D352/19
MD1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 352/19/2 – APPROVAL**

Development Consent Number: 352/19/2

Land to which this applies: G01, 164 Willoughby Road, Crows Nest
Lot No.: 28, SP: 92639

Applicant: Gavin Ng

Proposal: Amend the wording of Condition C1

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. **352/19** and registered in Council's records as Application No. **352/19/2** relating to the land described as **G01, 164 Willoughby Road, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 21 January 2020, has been determined in the following manner: -

- **To delete condition C1 of the consent dated 21/1/20 and insert in lieu thereof the following new condition/s:**

Willoughby Road External Sign and Hume Lane Door and Window Treatment

C1. The Willoughby Road external window sign shown on drawing no. A42 prepared by Liteco Studio and received by Council on 04.11.2019 is not approved: The sign must be deleted from the plans.

The western wall and ceiling to the cool and freezer rooms are not approved. This wall and ceiling must be deleted from the plans. The rooms must reach the ceiling of the tenancy.

Additionally, with the exception of the wall and sliding door dividing the cool and freezer rooms, no shelves or other obstructions above the height of the Hume Lane windowsill are permitted within 1m of the Hume Lane windows.

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: To reduce visual clutter and ensure light spill of, surveillance of and interest & activity to the public domain)

The building plans approved under Development Application 233/13 demonstrated seating & customer use of the rear windows & doors. The proposed cool and freezer room wall would obstruct the lower portion (1.6m) and the majority of the window and, from the lane, only permit sight to the upper portion (1.2m) of the window well above floor level and any activity. The proposal constitutes a blank wall on the inside of the window to the lane.

Reason for approval:

The proposal is not considered to create or contribute to an interesting, vibrant and high quality lane. The location of freezer rooms across windows would contradict the purpose of the original tenancy layout and laneway frontage which is to enable passive surveillance. The proposal is considered to inconsistent with the B4 zone objectives. The cool and freezer rooms could be alternatively located and the clear rear window retained.

The application is considered to propose unreasonable impact on the built environment.

How community views were taken into account:

The proposal does not change the approved height, external shape or external façade of the building and is not considered to disadvantage neighbouring private property. The proposal is consistent with Section 3.4.2 of Council's Community Engagement Protocol and did not require advertisement. Standard conditions in the existing development consent are also considered to adequately address any potential, unreasonable adverse impacts to the locality and ensure the protection of the public interest.

The conditions attached to the original consent for Development Application No. 352/19 by endorsed date of 21 January 2020 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