

86 Dunning Avenue Pty Ltd  
Suite 706, 97-99 Bathurst Street  
SYDNEY NSW 2000

D413/16  
GJY (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.56 MODIFICATION 413/16/6 – APPROVAL**

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**Development Consent Number:** 413/16/6

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**Land to which this applies:** 84-90 Atchison Street, Crows Nest  
Lot No.: 8, DP: 2872

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**Applicant:** 86 Dunning Avenue Pty Ltd

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**Proposal:** Modification of Development Consent DA413/16 for a residential flat building – modifying condition E6 to allow temporary anchors on Council land.

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Pursuant to Section 4.56 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **413/16** and registered in Council's records as Application No. **413/16/6** relating to the land described as **84-90 Atchison Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 July 2018, has been determined in the following manner: -

***Condition E6 be amended as follows:***

**Geotechnical Stability during Works**

E6. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the required geotechnical report and all subsequent geotechnical inspections carried out during the excavation and construction phase.

No rock anchors (temporary or permanent) are to be used on adjacent private land at No. 80-82 Atchison Street. No permanent rock anchors are to be installed on public property. An application for temporary anchors and associated works is to be submitted to Council's Development Engineer and prior approval must be obtained from North Sydney Council, where temporary anchors are proposed on public property.

(Reason: Ensure appropriate professionals are engaged at the appropriate stages during construction and to prevent unauthorised encroachments on private and public property)

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**Reason for approval:**

The s.4.56 application has been assessed against all applicable environmental planning instruments and Council policies and with regard to the Land and Environment Court decision, and was found to be generally satisfactory, including in relation to s.4.56 of the Environmental Planning and Assessment Act 1979, the North Sydney LEP 2013 and North Sydney DCP 2013, subject to amended conditions of consent.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979, the application is considered to be satisfactory as detailed in the assessment report.

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

The proposal was notified and advertised in accordance with Part A, Section 4 *Notification of Applications* of North Sydney DCP 2013 and no submissions in relation to the proposed modifications were received.

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The conditions attached to the original consent for Development Application No. 314/16 by endorsed date of 6 July 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 Environment 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 4.56 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 4.56 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**