

Original signed by: David Hoy Dated: 7/4/2020

Anthony Robert Waller
41 Burlington Street
CROWS NEST NSW 2065

D98/18
DWH(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 98/18/2 – APPROVAL**

Development Consent Number: 98/18/2

Land to which this applies: 41 Burlington Street, Crows Nest
Lot No.: C, DP: 32862

Applicant: Anthony Robert Waller

Proposal: Modifications to DA 98/18 proposing various changes including roof form over studio above garage, new window to studio, internal and external changes.

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. **98/18** and registered in Council's records as Application No. **98/18/2** relating to the land described as **41 Burlington 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: -

1. Condition A1 be amended to read as follows:

Development in Accordance with Plans/documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Title	Drawn by	Received
DA103	B	Proposed Site Plan, Site Analysis, Roof Plan, Stormwater Concept Plan and Sediment Control Plan	Architect Fin	10/01/2020
DA104	B	Proposed Floor Plans	Architect Fin	10/01/2020
DA201	B	East Elevation, South Elevation and Rear Perspective View	Architect Fin	10/01/2020

Plan No.	Issue	Title	Drawn by	Received
DA202	B	Garage/Studio Laneway Elevation + Rear Elevation of New Development at 34/40/40A Falcon St	Architect Fin	10/01/2020
DA203	B	Garage/Studio North Elevation + Section 1 + West (Side) Elevation	Architect Fin	10/01/2020
DA204	B	Section 2, Front Elevation and Laneway Photograph	Architect Fin	10/01/2020

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

2. Condition's. A4 & C21 be amended to read as follows:

External Finishes & Materials

A4. External finishes and materials must be in accordance with the submitted drawing DA207 Schedule of External Finishes (Rev.B) dated Dec 2019, prepared by Architect Fin and received by Council on 10/01/2020, unless otherwise modified by Council in writing.

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

BASIX Certificate

C21. 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. A306502_02 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)

3. Condition G10 be amended to delete the second last paragraph.

Reason for approval:

The proposed modifications are considered to be of minimal environmental impact and are 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.

Having regard to the provisions of section 4.55 & 4.15(1) of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

How community views were taken into account:

The owners of adjoining properties and the **Holtermann Precinct** were notified of the proposed development for a 14-day period, between **21 January and 7 February 2020**. No submissions were received in response to the proposed modifications.

The conditions attached to the original consent for Development Application No. 98/18 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

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER(ASSESSMENTS)