

Jeff & Yvette Mitchell
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PYRMONT NSW 2009

D38/18
GJY (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 38/18/2 - APPROVAL**

Development Consent Number: 38/18/2

Land to which this applies: 43 Hayberry Street, Crows Nest
Lot No.: 2, DP: 217727

Applicant: Jeff & Yvette Mitchell

Proposal: Modification of consent for alterations and additions to terrace.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 15 April 2020.

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. **38/18** and registered in Council's records as Application No. **38/18/2** relating to the land described as **43 Hayberry Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 September 2018, has been determined in the following manner: -

- *Amend Conditions A1, A3 and A5 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	Dated
S4.5501		Site Plan	COSO Architecture	Nov 2019
S4.5502		Ground Floor Plan	COSO Architecture	Nov 2019
S4.5503		First Floor Plan	COSO Architecture	Nov 2019
S4.5504		Roof Plan	COSO Architecture	Nov 2019
S4.5505		Back Elevations	COSO Architecture	Nov 2019

S4.5506		East Elevation	COSO Architecture	Nov 2019
S4.5507		West Elevation	COSO Architecture	Nov 2019
S4.5508		Studio Elevation	COSO Architecture	Nov 2019
S4.5509		Section AA	COSO Architecture	Nov 2019
DA05	A	Front and Back Elevation	COSO Architecture	June 2018
DA21		Materials/Finishes	COSO Architecture	June 2018

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

Amended Plans – Heritage

- A3. 1) The proposed solar panels in the rear western facing roof plane shall be revised to cover no more than 25% of the roof plane. All skylights should be in line with the roof plane.
- 2) The legibility of the traditional layout of the terrace be conserved by the retention of nib walls and bulk heads where possible.

(Reason: To conserve the characteristic elements of the terrace house dwelling and the character of the Holtermann Estate C conservation area)

Amended Plans

- A5. 1) The privacy screen on the southern elevation of the studio shall include 13 louvre blades, with a minimum blade depth of 40cm, angled upwards at a fixed angle of 30 degrees, in order to prevent downward viewing. Details shall be provided to the satisfaction of the PCA.
- 2) The “Back Elevation” shown on plan DA 05 Issue A is not approved and has been superseded by the Back Elevation on plan S4.5505

(Reason: To retain reasonable privacy for surrounding dwellings and to rationalise the architectural plan sets)

The modification application has been assessed against all applicable statutory requirements and environmental planning instruments and is found to be generally satisfactory, including in relation to the North Sydney LEP 2013 and North Sydney DCP 2013.

Reason for approval:

The subject application has taken into account community views and adequately addresses the concerns raised in submissions, will not result in any unreasonable adverse effect on the local built and natural environment and will not result in any unreasonable adverse social or economic impact.

The development application would promote the orderly and economic use and development of land and its approval is in the public interest.

Having regard to the provisions of Section 4.55 and 4.15 of the EP&A Act 1979 the modification application is considered to be satisfactory.

In relation to the unauthorised works which have been carried out in contravention of both DA38/18 and the related construction certificate, the matter will be referred to Council's Building Compliance team for appropriate action.

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

The owners of adjoining properties and the Hayberry Precinct were notified of the proposed development for a 14-day period, between 29/11/19 and 13/12/19. The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2020/15_April_2020)

The conditions attached to the original consent for Development Application No. 38/18 by endorsed date of 5 September 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
**GEORGE YOUHANNA
EXECUTIVE PLANNER**