

North Sydney Council
200 Miller Street
NORTH SYDNEY NSW 2060

D234/18
LH(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 234/18/2 – APPROVAL**

Development Consent Number: 234/18/2

Land to which this applies: 43, 45-47 & 49 Hume Street and 90-92 Willoughby Road, Crows Nest
Lot No.: 11, SEC: 4, DP: 2872

Applicant: North Sydney Council

Proposal: To modify a development consent DA 234/18 to correct Condition C7 with regards to timing.

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. **234/18** and registered in Council's records as Application No. **234/18/2** relating to the land described as **43, 45-47 & 49 Hume Street and 90-92 Willoughby Road, Crows Nest**.

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

1. To modify condition C7 of the consent as follows:

Geotechnical Certificate

- C7. A report prepared by an appropriately qualified Geotechnical Engineer certifying that the existing rock formations and substrate on the site is capable of:
- a) withstanding the proposed loads to be imposed;
 - b) withstanding the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
 - c) providing protection and support of adjoining properties; and
 - d) the provision of appropriate subsoil drainage during and upon completion of construction works

must be submitted for approval by the Certifying Authority prior to the issue of the relevant Construction Certificate.

Recommendations made in the certified report must be complied with at all times.

Building plans and specifications submitted for approval with any construction certificate application must comply with (a), (b), (c) and (d) above and the certified report, including any recommendations made in the said certified report.

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.

Note: The requirements of this condition must be satisfied prior to the issue of a Construction Certificate for any below ground works, excavation works, or works that may affect the structural stability of any adjoining properties.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Reason for approval:

In respect of the requirements of Condition No. C7, Council is satisfied that the requirements of the condition are overly prescriptive and accordingly, it is recommended that the condition be amended as set out in the recommendation of this development consent.

How community views were taken into account:

In accordance with the provisions of Section 4.4.9 of NSDCP 2013, the subject application was not required to be notified

The conditions attached to the original consent for Development Application No. 234/18 by endorsed date of 5 December 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
LARA HUCKSTEPP
EXECUTIVE PLANNER