

Original signed by: Luke Donovan Dated: 10/3/2021

Legge and Legge Architects Pty Ltd
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SYDNEY NSW 2060

D198/20
LD(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 APPLICATION 198/20/2 - APPROVAL**

Development Consent Number: 198/20/2

Land to which this applies: 425-429 Pacific Highway, Crows Nest
Lot No.: 1, DP: 651865

Applicant: Legge and Legge Architects Pty Ltd

Proposal: Section 4.55 application to modify DA 198/20 in respect of changes to Conditions G2 Time period for advertising and I1 Dwell Time and Curfew on Advertising.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 3 March 2021.

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. **198/20** and registered in Council's records as Application No. **198/20/2** relating to the land described as **425-429 Pacific Highway, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 December 2020, has been determined in the following manner: -

1. To modify Condition I1 as follows:

Dwell Time and Curfew on Advertising

- I1 a) The dwell time for the advertising on the LED sign (southern elevation at level 5 of the building) must be not less than **25** seconds.
- b) The advertising on the LED sign must not change during the time that school zones along Pacific Highway are active (i.e. 8.00am-9.30am and 2.30pm-4.00pm on weekdays during School Terms). The content of advertising during school zone period is to be of a suitable content (excluding alcohol, gambling and cigarettes).

- c) A curfew is to be placed on the advertising on the LED sign (southern elevation at level 5 of the building) between 11pm and 7am (every day of the year) The above requirements must be programmed into the sign to ensure compliance with the terms of this condition. The requirements of this condition may be subject to variation following the submission by the Applicant and an assessment of a modification application under Section 4.55.

(Reason: To protect existing and future residential amenity and to minimize safety impacts for motorists)

2. No changes to the other conditions of consent relating to DA198/20

Reason for approval:

The Panel is satisfied the modification application relates to the development as originally approved.

The Panel endorses the Officer's recommendation to allow the dwell time to be reduced to 25 seconds as this is consistent with the relevant guidelines.

However, the Panel considers given the adoption of the St Leonards/Crows Nest Plan 2036, the period of the consent should be limited to 5 years. This does not prevent the applicant from making a further application at that time.

How community views were taken into account:

The application was lodged to surrounding properties and the relevant to precinct committees between 29 January and 12 February 2021. No submissions were received.

The conditions attached to the original consent for Development Application No. 198/20 by endorsed date of 2 December 2020 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Luke Donovan**. 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)