

Simon John Grimes  
177 West Street  
CROWS NEST NSW 2065

D366/10  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 366/10/3 – APPROVAL**

---

**Development Consent Number:** 366/10/3

---

**Land to which this applies:** 177 West Street, Crows Nest  
Lot No.: 1, SEC: 1 DP: 819

---

**Applicant:** Simon John Grimes

---

**Proposal:** Modify DA 366/10 for various modifications to a dwelling including deletion of pergola and carport roof and addition of a shade sail over carport.

---

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. **366/10** and registered in Council's records as Application No. **366/10/3** relating to the land described as **177 West Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 30 November 2010, has been determined in the following manner: -

**1. To amend Condition A1 as follows:-**

**Development in Accordance with Plans (Section 4.55 Amendments)**

- A1. The development being carried out in accordance with drawings numbered A04 Revision B, A05 Revision C and A06 Revision C, dated 11 September 2010, drawn by Studio SMA - Sergio Melo e Azevedo, and received by Council on 21 September 2010, and endorsed with Council's approval stamp, except as modified by the following plans: -
- a. Drawings numbered A04 Revision C, A05 Revision D, A06 Revision D, dated 8 September 2012, drawn by Studio SMA - Sergio Melo e Azevedo, and received by Council on 10 September 2012.

<b>Plan No.</b>	<b>Dated</b>	<b>Title</b>	<b>Drawn by</b>	<b>Received</b>
A04 E	19 October 2020	Demolition and Proposed Section 1	Studio SMA	16 December 2020
A05 F	19 October 2020	Proposed Ground Floor and Roof Plans	Studio SMA	16 December 2020
A06 F	19 October 2020	Proposed Elevations	Studio SMA	16 December 2020

and except as amended by the following conditions.

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

**2. To insert Condition A4 as follows:-**

**No Removal of Trees**

A3. All existing trees within the site including any Street trees adjacent to the site in Trafalgar Street at the time of determination DA366/10/3 are to be retained unless otherwise approved for removal is granted via a separate tree preservation order or development application to Council.

(Reason: To ensure compliance with the approved development)

---

**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 new 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 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 Registry Precinct were notified of the development, for a 14-day period, between 15 January and 29 January 2021, in accordance with section A4 of NSDCP 2013. No submissions have been received for the duration of the assessment.

---

The conditions attached to the original consent for Development Application No. 366/10 by endorsed date of 30 November 2010 still apply.

**ADVISINGS**

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