

Original signed by **David Hoy** on **27 April 2021**

Matthew Young
Malken Pty Ltd
PO Box 609
SYDNEY MARKETS NSW 2129

D290/20
HS1 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 290/20/2 - APPROVAL

Development Consent Number: 290/20/2

Land to which this applies: 13-19 Willoughby Road, Crows Nest
Lot No: 5, DP: 24071

Applicant: Y Squared Pty Ltd

Proposal: Section 4.55(1A) modifications to amend Condition A1, C1 and I1 in the original consent and minor external alterations to the approved signage.

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. **290/20** and registered in Council's records as Application No. **290/20/2** relating to the land described as 13-19 Willoughby Road, Crows Nest.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 16 December 2020, has been determined in the following manner:-

1. To modify the development consent (D290/2020) and modify conditions A1 as follows:

Development in Accordance with Plans

A1.

Plan No.	Issue	Title	Drawn by	Received
DA90.21	3	Elevation - Signage	Cornerstone Health	12.11.2020
DA90.20	2	Signage Location Plan	Cornerstone Health	12.11.2020

As amended by the following plans and additional conditions:

Plan No.	Issue	Title	Drawn by	Received
DA90.21	6	Elevation - Signage	Cornerstone Health	January 2021
DA90.20	2	Signage Location Plan	Cornerstone Health	October 2021

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

Terms of Consent (D290/20/2)

A5. Approval is granted for the following works as shown on drawings numbered DA90.21 and DA90.20, dated January 2021 and October 2020, drawn by Cornerstone Health, and received by Council on 17 February 2021:

Wording and colouring of proposed wall signs 5, 6, 7;
Illumination of wall sign 1; and
Timing of approved illumination to under awning signs to be modified.

No approval is given or implied in this consent for any other signage. Any changes to the signage will require further assessment from Council.

(Reason: To ensure the terms of the consent are clear)

2. Amend Condition C1 as shown below:

Proposed Wall Sign

C1. The proposed wall sign located above the existing awning is to be reduced in size by 25% of the overall surface area. A reduction of 25% in surface area for the proposal wall sign would result in the proposed wall sign having a total surface area of 30.225 sqm. The illumination of the wall sign must be in accordance with Conditions 11 and 12 of this consent.

~~No consent is given to the illumination of the proposed wall sign located above existing sign.~~

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 signage is similar in scale to the existing business identification signage located along Willoughby Road)

3. Amend Condition 11 as shown below:

Ongoing/Operational Conditions - Hours of Illumination

11. All illuminated signs approved by this consent must cease illumination between the hours of 1.00 am and 7.00 am daily.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

Reason for approval:

The proposed modifications satisfy Section 4.55(1A) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

The proposed modifications to amend conditions would not cause adverse material amenity impacts on the adjoining properties in terms of visual privacy/amenity loss or overshadowing. Amended conditions have been recommended to address concerns around illumination.

In summary, the proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1A) application be approved with modifications to the relevant conditions.

How community views were taken into account:

The development application was required to be notified pursuant to the North Sydney Community Participation Plan 2019. The application was notified to adjoining properties between the dates of the 5 March 2021 and 19 March 2021. The application resulted in one submission. The concerns raised in the submission are addressed by the amended conditions of consent.

The conditions attached to the original consent for Development Application No. 290/20 by endorsed date of 16 December 2020 still apply.

ADVISINGS

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

Endorsed for and on behalf of North Sydney Council

DATE

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