

o2 architecture  
Studio 6, 13-15 Smail Street  
ULTIMO NSW 2007

D224/20  
GJY (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED**  
**SECTION 4.55 MODIFICATION 224/20/2 – APPROVAL**

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**Development Consent Number:** 224/20/2

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**Land to which this applies:** 127 Alexander Street, Crows Nest  
Lot No.: 5, PT: PT; SEC: 13, DP: 1265

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**Applicant:** o2 architecture

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**Proposal:** Modification of consent for alterations and additions to commercial building.

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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. **224/20** and registered in Council's records as Application No. **224/20/2** relating to the land described as **127 Alexander Street, 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. The following conditions are to be modified as detailed below:**

**A. Conditions that Identify Approved Plans**

**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.	Rev No.	Description	Prepared by	Dated
DA02	D	Existing Plans	o2 architecture	7/7/21
DA03	D	Lower Ground & Ground	o2 architecture	7/7/21
DA04	D	First & Second Floor	o2 architecture	7/7/21
DA05	D	Roof	o2 architecture	7/7/21
DA06	C	West & North Elevation	o2 architecture	7/7/21

DA07	C	East & South Elevation	o2 architecture	7/7/21
DA08	E	Sections	o2 architecture	3/9/21

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

#### Location of Plant

- C16. All plant and equipment is to be located within the basement of the building (ie, the area identified on the architectural section drawings as "Basement Carpark") and is not to be located on balconies or the roof. Air conditioning equipment is to be located in either the basement or the ground floor southern alcove area. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of any Construction Certificate. 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

#### Security Deposit/ Guarantee Schedule

- C21. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$18,00.00
Infrastructure Damage Bond (Alexander Street and Alexander Lane)	\$4,000.00
	\$2,000.00
<b>TOTAL BONDS</b>	<b>\$24,000.00</b>

Note: The following fees applicable

Fees	
Section 7.11 Contribution	\$3,195.79
<b>TOTAL FEES</b>	<b>\$3,195.79</b>

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

#### 2. The following additional condition (C20A) is to be applied:

##### Section 7.11 Contributions – Additional GFA approved under modification application No. 224/20/2

- C20A. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 7.11 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

This contribution is based on 26.5m<sup>2</sup> of additional office GFA approved under modification No.224/20/2 and is payable in addition to the contribution required by condition C20.

A	B (\$)
Plan administration and management	\$47.61
Public domain	\$2,114.65
Active transport	\$120.67
Community facilities	\$152.69
Open space and recreation facilities	\$760.16
<b>The total contribution is</b>	<b>\$3,195.79</b>

The contribution MUST BE paid prior issue of any Construction Certificate.

The above amount, will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

**Reason for approval:**

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

The proposed modified building exceeds the 10m height limit specified in Clause 4.3 of the North Sydney Local Environmental Plan 2013 by a further 0.6m. The additional height is considered to be acceptable as discussed previously.

The development application 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(2) and section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved.

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

Council notified adjoining properties and the Holtermann Precinct of the proposed modification, seeking comment between 23/7/21 and 6/8/21. The submitters' concerns have been addressed within the assessment report.

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The conditions attached to the original consent for Development Application No. 224/20 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 **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**

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DATE

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Signature on behalf of consent authority  
GEORGE YOUHANNA  
EXECUTIVE PLANNER