Original signed by: Geoff Mossemenear on: 1/4/19

Armada Crows Nest Pty Ltd
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D430/17
GM (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 430/17/2 – APPROVAL

Development Consent Number:	**430/17**
Land to which this applies:	137-139 Alexander Street, Crows Nest Lot No.: 2, DP: 508127
Applicant:	Armada Crows Nest Pty Ltd
Proposal:	To modify consent for demolition of the existing buildings and construction of a four (4) storey mixed use development with basement parking

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. **430/17** and registered in Council's records as Application No. **430/17/2** relating to the land described as **137-139 Alexander Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 1 August 2018, has been determined in the following manner: -

1. To replace conditions C4, C5, C6, C10, C12, C13, C14, C17, C18, C20, and C24 with the following new conditions namely:

Shoring for Adjoining Property

C4. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements, must be submitted to the Certifying Authority for approval **following demolition and prior to the issue of a Construction Certificate – Stage 2 for excavation, shoring and footings**. A copy of this documentation must be provided to the Council for record purposes.

Note: Approval of engineering drawings for shoring works to be located on adjoining property by the Certifying Authority does not authorise a trespass on private or public land. All relevant permissions/ legal rights must be obtained to undertake any works on adjoining land.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

Structural Adequacy of Adjoining Properties – Excavation Works

C5. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties No's. 133 Alexander Street and 1 Devonshire Street, which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval **following demolition and prior to the issue of a Construction Certificate – Stage 2 for excavation, shoring and footings**. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Geotechnical Report

C6. **Prior to the issue of a Construction Certificate – Stage 2 for excavation, shoring and footings** a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:

a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;

b) the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;

c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);

d) the existing groundwater levels in relation to the basement structure, where influenced;

e) the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and

f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydrogeological engineer with previous experience in such investigations and reporting.
It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;

b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;

c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;

d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;

e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and

f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

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

Bicycle Storage and Parking

C10. **Ten communal bicycle racks/spaces shall be provided for the development**. The bicycle storage shall be designed in accordance with the applicable Australian Standards. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**. The Certifying Authority must ensure that the building plans and specifications, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To promote and provide facilities for alternative forms of transport)

Basement Car park to comply with relevant standards

C12. The basement layout must comply with all requirements of Australian Standard AS2890.1. Certification from a suitably qualified and practicing Civil Engineer that the basement design will comply with the requirements of the Australian Standard must be provided to the Certifying Authority for approval **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**.

(Reason: To ensure the basement layout complies with relevant standards)

Required Infrastructure Works –Roads Act 1993

C13. **Prior to the issue of a Construction Certificate – Stage 3 for structure of the building,** engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development:

<u>Road Works</u>

a) construction of a fully new replacement concrete footpath is required across the entire site frontage in Alexander Street and Devonshire Street. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is uniform without showing signs of dipping or rising particularly at entrances.

b) Deleted

c) construction of a fully new kerb and gutter is required across the entire site frontage in Devonshire Street and Alexander Lane.

d) A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.

e) cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.

Note: *A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

Obtain Driveway Crossing Permit under S.138 Roads Act 1993

C14. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**. In order to obtain a permit under S.138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum:

a) the vehicular access way must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor;

b) the redundant layback crossing along Devonshire Street must be reinstated as kerb gutter and footpath;

c) the width of the vehicular layback in Alexander Lane must be 3.50 metres (including the wings);

d) the vehicular layback must be set square to the kerb;

e) the crossing (between the layback and the property boundary) must be placed on a single straight grade of approximately 4.5%, falling to the back of the layback;

f) the gutter levels and boundary footpath levels must match the existing levels and shall not be altered;

g) new footpath, kerb gutter and road shoulder **600mm** wide strip adjacent to all new gutter works) works are required for the full property frontage;

h) the footpath, kerb gutter, and road shoulder must be transitioned 1m on both sides of the crossing to ensure uniformity in the road reserve;

i) the road shoulder must be reconstructed 600mm wide to gutter lip, adjacent to all new gutter works;

j) any twisting of driveway access must occur entirely within the subject property;

k) all inspection openings, utility services must be adjusted to match the proposed driveway levels;

l) sections along centre-line and extremities are required at a scale of 1:50 to be taken from the centre-line of the roadway through to the parking area itself and must include all changes of grade and levels both existing and proposed;

m) a longitudinal section along the gutter line at a scale of 1:50 showing how it is intended to blend the vehicular crossing with the existing kerb and gutter;

n) a longitudinal section along the footpath property boundary at a scale of 1:50 is required;

o) the sections must show the calculated clearance to the underside of any overhead structure;

p) all details of internal ramps between parking levels; and

q) a swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

The permit must be granted by Council prior to the issue of any Construction Certificate.

All driveway and infrastructure works on the road reserve must be undertaken in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained and referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Floor Levels for Flooding

C17. Floor levels adjacent to overland flow path, are to be minimum **100mm** above the 1 in 100 year flood level. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**. 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: Prevention of damage to dwellings as a result of flood events)

Pump-Out System Design for Stormwater Disposal

C18. The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria: -

a) the pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20-year storm;

b) the pump system shall be regularly maintained and serviced, every six (6) months; and

c) any drainage disposal to the street gutter from a pump system, must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Engineering details demonstrating compliance with these criteria, and certified by an appropriately qualified and practicing civil engineer shall be provided to the Certifying Authority for approval **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**.

(Reason: To ensure adequate provision is made for the discharge of sub-surface stormwater from the excavated parts of the site)

Footpath, Entries and Fire Exit Details (Mixed Use/Commercial/Apartments)

C20. Footpaths, entries and exits and fire exits for the development must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**. The design must include (but is not limited to) the following: -

a) cross section along the centre-line of each access point to the building including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed;

b) the sections must show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels;

c) the sections must show the calculated clearance to the underside of any overhead structure;

d) a longitudinal section along the boundary line showing how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath must be designed (at a single straight grade of 3% falling to top of kerb) so that it is smooth without showing signs of dipping or rising particularly at entrances; and

e) a longitudinal section along the gutter and kerb line extending 5 metres past property lines showing transitions.

Details, plans and specifications complying with this condition are to be certified as complying with the Building Code of Australia (BCA) and Council's standard footpath specifications, and the certification, details, plans and specifications must be provided to the Certifying Authority for approval **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**. Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to the Certifier and North Sydney Council, **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**.

(Reason: To facilitate suitable pedestrian and disabled access to private sites, and to ensure that internal levels reflect footpath boundary levels)

Amendments to the Landscape Plan

C24. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- To retain the existing *Murraya paniculata* (Orange Jessamine) hedge on Alexander St and include the maintenance of the hedge within the 52 week contract period from the date of practical completion.
- To label and specify the new street tree on Alexander St as a *Platanus occidentalis 'digitata*'. (American Plane) at 200 L pot size not *Platanus acerifolia*. and include the maintenance of the street tree within the 52 week contract period from the date of practical completion.
- To label and specify the new required street tree on Devonshire St as a *Platanus occidentalis 'digitata*'. (American Plane) at 200 L pot size and include the maintenance of the street tree within the 52 week contract period from the date of practical completion.

An amended landscape plan complying with this condition must be submitted to the Certifying Authority for approval **prior to the issue of a Construction Certificate – Stage 3 for structure of the building**. The Certifying Authority must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

Reason for approval:	The proposed modifications are considered to be generally 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 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. Council's Development Engineer has provided comment and raised no objections to the proposed changes to conditions C13 and C17. Council's Landscape Development Officer does not support the deletion of the required street tree and accordingly the modifications to C24 and G13 are not recommended. Having regard to the provisions of section 4.55 & 4.15(1) 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:	Notification was not required under Council's policy.

The conditions attached to the original consent for Development Application No. 430/17 by endorsed date of 1 August 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
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER