

Edward James  
9/11-27 Carabella Street  
KRRIBILLI NSW 2061

D17/20  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 17/20/3 - APPROVAL**

**Development Consent Number:** 17/20

**Land to which this applies:** 29 Wheatleigh Street, Crows Nest  
Lot No.: 46, DP: 11773

**Applicant:** Edward James

**Proposal:** Section 4.55(1A) for various modification principally to the  
basement level

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. **17/20** and registered in Council's records as Application No. **17/20/3** relating to the land described as 29 Wheatleigh Street, Crows Nest.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 30 July 2020 been determined in the following manner:

**1. To amend Conditions A1, and C14 as follows:**

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

**DA17/20 Approved Plan list (Deferred Commencement Completed List)**

Plan No.	Dated	Issue	Title	Drawn by	Received
DA01	7 January 2020	A	Site and Roof Plan	Corben Architects	23 January 2020
DA02	20 March 2020	B	Level 1 Basement	Corben Architects	30 March 2020
DA03	20 March 2020	B	Level 2 Ground Floor	Corben Architects	30 March 2020
DA04	20 March 2020	B	Level 3 First Floor	Corben Architects	30 March 2020
DA05	7 January 2020	A	Section AA	Corben Architects	23 January 2020
DA06	7 January 2020	A	Section BB	Corben Architects	23 January 2020
DA07	7 January 2020	A	North Elevation	Corben Architects	23 January 2020
DA08	7 January 2020	A	East Elevation	Corben Architects	23 January 2020
DA09	7 January 2020	A	South Elevation	Corben Architects	23 January 2020
DA10	7 January 2020	A	West Elevation	Corben Architects	23 January 2020

**DA17/20/2 Approved Plan List**

<b>Plan No.</b>	<b>Dated</b>	<b>Issue</b>	<b>Title</b>	<b>Drawn by</b>	<b>Received</b>
DA02	16 September 2020	D	Level 1 Basement	Corben Architects	10 November 2020
DA03	16 September 2020	D	Level 2 Ground Floor	Corben Architects	10 November 2020

**DA17/20/3 Approved Plan List**

<b>Plan No.</b>	<b>Dated</b>	<b>Issue</b>	<b>Title</b>	<b>Drawn by</b>	<b>Received</b>
DA01	7 June 2021	E	Site and Roof Plan	Corben Architects	24 June 2021
DA02	24 August 2021	F	Level 1 Basement	Corben Architects	25 August 2021
DA03	7 June 2021	E	Level 2 Ground Floor	Corben Architects	24 June 2021
DA04	7 June 2021	E	Level 3 First Floor	Corben Architects	24 June 2021
DA05	27 May 2021	C	Section AA	Corben Architects	24 June 2021
DA09	7 June 2021	E	South Elevation	Corben Architects	24 June 2021
DA10	7 June 2021	E	West Elevation	Corben Architects	24 June 2021

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

**Basement Car park to comply with relevant standards**

C14. The basement layout inclusive of turntable 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 issue of any Construction Certificate.

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

**2. To insert the following new Conditions C41 and I2 as follows:**

**Garbage and Recycling Facilities**

An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

1. All internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
2. Provision for the separation and storage in appropriate categories of material suitable for recycling;
3. The storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2 m from the street boundary of the property;
4. If a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay must be provided no more than 2 m from the street boundary of the property;
5. Garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and

6. Garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Plans and specifications which comply 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.

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

**Standard Condition I29 is as follows and is not on your consent notice:**

**Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10.00 pm and 6.00 am on any day.

(Reason: To ensure the amenity of surrounding properties)

**Reasons 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 application has been notified as per the details under the Notification heading of the report. No submissions raising any concern with the proposed modifications have been received during the course of the assessment of the modification application.

of 30 July 2020 still apply.

**ADVISINGS**

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

**20 September 2021**

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER - ASSESSMENTS**