

Original signed by **David Hoy** on **25/07/2022**

Chris Ryan
Victoria Plaza Commercial Pty Ltd
L20/100 Arthur Street
NORTH SYDNEY NSW 2060

D383/19
RB6 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 383/19/3 - APPROVAL**

Development Consent Number: **383/19**

Land to which this applies: 77 Berry Street, North Sydney
Lot No.: 7, DP: 1237296

Applicant: Chris Ryan on behalf of Victoria Plaza Commercial Pty Ltd

Proposal: To modify a consent - alterations and additions to commercial development approved under DA 383.2019 on 10 February 2020 which granted approval for 'Use of shop 2 as a café, construction of covered dining area, business identification sign' on Lot 3 DP 1078998 (now Lot 7 DP 1237296)

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. **383/21** and registered in Council's records as Application No. **383/21/3** relating to the land described as **77 Berry Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **10 February 2020**, has been determined in the following manner:

To delete condition A1 of the consent and insert in lieu thereof the following new condition, namely:

Development in accordance with Plans/Documentation

A1. The development being carried out in accordance with drawings numbered:

Plan No.	Rev	Description	Prepared by	Dated
DA 000	I	Notation Sheet	Breakspear Architects	25/02/2022
DA 100	G	Existing Site Plan	Breakspear Architects	10/01/2022
DA 101	I	Proposed Site Plan	Breakspear Architects	7/02/2022
DA 102	H	Existing Plan - Ground Level	Breakspear Architects	24/01/2022
DA 103	G	Demolition Plan - Ground Level	Breakspear Architects	10/01/2022
DA 104	L	Proposed Plan - Ground Level	Breakspear Architects	25/02/2022

DA 105	J	Proposed Plan - Roof Level	Breakspear Architects	25/02/2022
DA 200	K	Section	Breakspear Architects	25/02/2022
DA 300	K	Elevations - North/South	Breakspear Architects	25/02/2022
DA 301	K	Elevations - East/West	Breakspear Architects	25/02/2022
DA 400	I	Finishes Schedule	Breakspear Architects	25/02/2022
DA 400A	A	Areas Schedule	Breakspear Architects	25/02/2022
S3 001	B	S3_Retail Tenant ID Colonnade	There	7/02/2020

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

The proposed modification is 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 granting of development consent to the originally approved development and is considered to be acceptable.

The originally approved development application was approved under the following reasons:

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 development application has taken into account community views and 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.

Reasons for Approval:

The modification to the approved outdoor dining structure associated with the approved café will provide for an improved structure to ensure better weather protection to patrons, maintain solar access, improve stormwater management, and will also provide further opportunities for additional landscaping elements at this location.

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:

The proposal is considered to be in the public interest for the reasons stated throughout this report.

The conditions attached to the original consent for Development Application No. **383/19** by endorsed date of **10 February 2020** still apply.

ADVISINGS

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

25 July 2022

DATE

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