



Pergola Land Australia Pty Ltd
PO Box 124
THORNLEIGH NSW 2120

D113/22/2
RW (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 113/22/2 - APPROVAL**

Development Consent Number: 113/22/2

Land to which this applies: 29 Yeo Street, Neutral Bay
SP: 12756

Applicant: Pergola Land Australia Pty Ltd

Proposal: Modification of Development Application No.113/22/1 to remove conditions B1 and C3.

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. **113/22** and registered in Council's records as Application No. **113/22/2** relating to the land described as **29 Yeo Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 10 June 2022, has been determined in the following manner:

1. To delete Conditions B1 and C3 from the Consent DA 113/22.

The proposal involves the modification of a consent to permit the deletion of Condition No. B1 and C3 from the consent relating to:

Reason for approval:

Condition No. B1: the requirement for a Construction Traffic Management Plan (Major DAs and Sites with Difficult Access) before the lodgement of an application for a Construction Certificate.

Condition No. C3: the requirement for a Geotechnical report for submission to a private certifier prior to the issue of a Construction Certificate (and ongoing, where indicated).

In respect of the requirements of Condition No. B1 and C3, Council is satisfied that the requirements of the conditions are overly onerous for the proposed development. The applicant has submitted a statement regarding the minor nature of works to support the removal of the above conditions. Council is satisfied that the conditions have been applied in error.

Accordingly, it is recommended that the condition be deleted from the consent.

How community views were taken into account:

In accordance with the provisions of Section 3.4.1 of Council's Community Participation Plan, the subject application was not required to be notified. Therefore, no submissions have been received.

The conditions attached to the original consent for Development Application No. 113/22 by endorsed date of 10 June 2022 still apply.

ADVISINGS

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



26 September 2022

DATE

Signature on behalf of consent authority
MIGUEL RIVERA
A/TEAM LEADER – ASSESSMENTS