



V J Mansell
W Buxton Pty Ltd
76 Willison Road
CARLTON NSW 2218

D191/21
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 191/21/2 - APPROVAL**

Development Consent Number: 191/21

Land to which this applies: 3/166 Pacific Highway, North Sydney
Lot No.: 3, SP: 72629

Applicant: V J Mansell

Proposal: Modification of Development Application No. 191/21 to delete
Condition K2

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. **191/21** and registered in Council's records as Application No. **191/21/2** relating to the land described as **3/166 Pacific Highway, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **13 December 2021**, has been determined in the following manner:

1. To delete Condition K2 of the consent:

Sydney Water _____

~~K2 — A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.~~

~~The Section 73 Certificate must be submitted to the Certifying Authority or North Sydney Council with the documentation to enable the issue of the Strata Certificate.~~

Notes:

- ~~1. Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site www.sydneywater.com.au or telephone 13 20 92.~~

~~2. Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.~~

~~(Reason: To ensure compliance with Sydney Water requirements)~~

The proposal (as modified) involves correcting an error in the consent by deleting Condition K2. The proposed modification will result in development that is substantially and materially the same as approved by DA191/21 (as demonstrated in the above considerations under Clause 4.55 of the *Environmental Planning and Assessment Act 1979*).

In accordance with the provisions of Section 4.55(1) of the *Environmental Planning and Assessment Act 1979* a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation.

Reasons for Approval:

As detailed above, Council considers that the deletion of Condition K2 is considered a minor error that is supported and accepted, as confirmed by Council's Senior Building Surveyor. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Accordingly, it is recommended that the following conditions are amended in the consent:

- Delete Condition K2.

How community views were taken into account:

In accordance with the provisions 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. **191/21** by endorsed date of **13 December 2021** still apply.

ADVISINGS

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

3 November 2022

DATE



Signature on behalf of consent authority
MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER