



Donovan Sia
101/25 Angas Street
MEADOWBANK NSW 2114

D368/18
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 368/18/10 - APPROVAL**

Development Consent Number: 368/18/10

Land to which this applies: 86-88 Walker Street, North Sydney
Lot No.: 1, DP: 1247547

Applicant: Donovan Sia

Proposal: Modification of DA368/18 to extend the approved construction hours for internal fit out works to facilitate the efficient construction of the approved development

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. **368/18** and registered in Council's records as Application No. **368/18/10** relating to the land described as **86-88 Walker Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 February 2019, has been determined in the following manner:

1. To modify Condition E12 of the consent so as to read as follows:

Compliance with Construction Noise Management Plan

E12. All works conducted on site which form part of this development must be carried out in accordance with the Construction Noise and Vibration Management Plan (CNVMP) prepared by Environmental Monitoring Services, report No. EMS19 6581-R3, date issued 16/05/22 (including Section 6 of this CNVMP) and all conditions of consent.

In the event that any noise complaints are received by Council and assessed by Council as substantiated, all construction works must cease (as directed by Council). Works may commence following Council's determination that noise complaints have been satisfactorily addressed.

The CNVMP must be included in all documentation within the relevant Construction Certificate, to supersede any previous noise management plans.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

2. To modify Condition E14 of the consent so as to read as follows:

Construction Hours

E14. Building construction and works must be restricted to within the hours of 7.00 am to 6.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays. **Despite the above, internal fit-out works may be undertaken between the hours of 6:00 pm and 10:00 pm Monday to Friday.**

Internal fit-out works, are defined as per the Construction Noise and Vibration Management Plan (CNVMP) prepared by Environmental Monitoring Services, report No. EMS19 6581-R3, date issued 16/05/22 (refer to Condition E12 of this consent). Except during works requiring a hoist, all internal fit-out works must be carried out internally and behind closed façades.

All other works that cannot be considered internal fit-out works must be restricted to standard construction hours referenced above.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 6.00 pm Monday to Friday only. For the purposes of this condition:

- a) "Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) "Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.
- c) "Excavation work" means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Reasons for Approval:

The proposal involves changes (extension) to the construction hours relating to internal fit-out works for the approved commercial building within No. 86-88 Walker Street, North Sydney.

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including the NSLEP 2013) have been described and detailed throughout this report. 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:

- Modify Condition E12 to reference revised acoustic report recommendations; and
- Modify Condition E14 to amend the approved construction hours.

How community views were taken into account:

The application was notified in accordance with Council's Community Participation Plan from 1 to 15 July 2022. No submissions were received during the above notification period.

The conditions attached to the original consent for Development Application No. 368/18 by endorsed date of 13 February 2019 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 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

2 November 2022

DATE



Signature on behalf of consent authority
MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER