



North Walker Property Pty Ltd
Locked Bag 1400
MEADOWBANK NSW 2114

D368/18
DWH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 368/18/8 - APPROVAL**

Development Consent Number: **368/18**

Land to which this applies: 86-88 Walker Street North Sydney
Lot No.: 1 DP: 857756

Applicant: Billbergia Pty Ltd

Proposal: Modification of DA 368/18 to delete Condition C35 (Lease agreement)

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. **368/18/8** 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. Condition C35 of the consent shall be deleted.**
- 2. The following additional conditions shall be imposed:**

Public Artwork to be installed

G4A. *The public artwork agreed under the requirements of Condition C28 of the consent is to be installed prior to the issue of the Final Occupation Certificate. Any variation to the artwork, shall be to the satisfaction of Council. The artwork is to be maintained in an acceptable condition at all times.*

(Reason: *To ensure that the art work required by this consent is delivered and maintained in an appropriate condition*)

Public Artwork - Indemnity Insurance

G4B. *Prior to the issue of the Final Occupation Certificate, the Certifying Authority must ensure that the land owner holds public liability and indemnity insurance with a minimum value of \$20M which indemnifies, and keeps indemnified, Council and its employees, officers, agents and contractors from and against all claims, expenses, losses including consequential losses, damages and costs (including costs on a solicitor and client basis and whether incurred by or awarded against Council) that Council may sustain or incur as a result, whether directly or indirectly, of the artwork structure required under this consent.*

The land owner must provide Council with a copy of its Certificate of Insurance and the Certificate of Currency with the Final Occupation Certificate.

(Reason: To ensure that Council is indemnified against any risk of harm or associated with the installation of the art work required by this consent and to ensure the artwork is maintained in an appropriate condition)

Reasons for Approval:

The proposed modification is considered to be consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. The proposed modification is consistent with the reasons for the granted of development consent to the originally approved development.

Having regard to the provisions of section 4.55 and 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.

How community views were taken into account:

In accordance with the provisions of the Clause 3.4.2 of the North Sydney Community Participation Plan 2019, 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. **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 **David Hoy** 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.

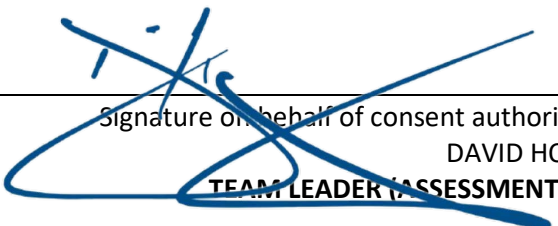
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of *the Environmental Planning and Assessment Act 1979* (the 'Act') are to be complied with:
- (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (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

16 February 2023

DATE


Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)