



Mr Charles Hong  
Prefecture 49 Pty Ltd  
Level 3, 2 Minna Close  
BELROSE NSW 2085

D140/23  
KRR (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 140/23/3 - APPROVAL**

**Development Consent Number:** 140/23

**Land to which this applies:** 139 Blues Point Road, McMahons Point  
Lot No.: 1, DP: 87441

**Applicant:** C Hong

**Proposal:** S4.55(1) Modification to correct a minor error, misdescription or miscalculation made in the Consent.

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. **140/23** and registered in Council's records as Application No. **140/23/3** relating to the land described as **139 Blues Point Road, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **29 November 2023**, has been determined in the following manner:

**1. To modify condition A1 and A4 of the consent so as to read as follows:**

**Development in Accordance with Plans/Documentation**

A1 The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the table or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Revision	Description	Prepared by	Dated
A003	C	Site Plan	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A100.1	C	Proposed Plan (GF))	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A200.1	C	Existing External Elevation	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A200.2	C	New External Elevation 01	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A200.3	C	New External Elevation 02	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A200.4	C	New External Elevation 03	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A200.5	C	New External Entrance Render	GURU Projects Pty Ltd	<b>1 Aug 2023</b>

A200.6	C	External Wall Signage Detail	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A200.7	C	External Menu Box Detail	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A200.8	C	External Transom Signage	GURU Projects Pty Ltd	<b>1 Aug 2023</b>
A401	C	External Entrance Detail	GURU Projects Pty Ltd	<b>1 Aug 2023</b>

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

#### **Exclusion of Roof Cowl/Flue**

- A4. The **existing** roof cowl/flue installed at the premises without consent is not approved under this consent. No consent may be inferred by this approval to the retention of these elements. The Certifying Authority must exclude these structures from this consent.

The development application has been assessed against the North Sydney Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and generally found to be satisfactory.

The proposal is unlikely to cause adverse material impacts to adjoining properties. The proposed works to support the CDC approved internal fit-out and use of the food and drink premises (restaurant) ensures that an appropriate use of the current building is provided and that a sufficient and active street frontage addressing Blues Point Road and the wider neighbourhood of Blues Point Village is facilitated. Any potential amenity issues (such as noise and air emissions generated by the charcoal cooker and exhaust system) are considered to be resolved through the imposition of conditions.

#### **Reasons for Approval:**

In relation to the exhaust flue/roof cowl which has been installed without prior consent, a condition is recommended to exclude this element, on the basis that development cannot grant retrospective approval for building works.

Having regard to the provisions of Section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*, the proposed development will not result in any unreasonable amenity or environmental impacts. The application is considered satisfactory and is recommended for approval.

#### **How community views were taken into account:**

As mentioned, no submissions were received during the notification of the proposed development.

The conditions attached to the original consent for Development Application No. **140/23** by endorsed date of **29 November 2023** still apply.

#### **ADVISINGS**

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

22 January 2024

DATE



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