



Mr Matthew Holt
Urbis
8/123 Pitt Street
SYDNEY NSW 2000

D486/15
DK4 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 486/15/10 - APPROVAL**

Development Consent Number: 486/15

Land to which this applies: 168 Walker Street, North Sydney
Lot No.: 100, DP: 1172241

Applicant: Matthew Holt

Proposal: Section 4.55(1A) modification to approved development consent including extend construction hours for internal fit-out works only to 10.00pm (Monday to Friday), and to provide for an additional pedestrian level wall on the Lower Ground Level, access stairs to the Miller Hotel (former Rydges Hotel) and landscaping changes to increase the deep soil areas and soft landscaping, and modification to parking allocation.

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. **486/15** and registered in Council's records as Application No. **486/15/10** relating to the land described as **168 Walker Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **12 July 2016**, has been determined in the following manner:

1. To amend Condition A1 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 and documentation and endorsed with Council's approval stamp, except where amended by the following conditions and this consent.

Plan No.	Rev.	Title	Drawn by	Dated/Received
DA-0000	H	Cover Sheet	Woods Bagot	31/3/21 (dated)
DA-1005	A	Demolition	Woods Bagot	22 December 2015
DA-1011	A	Site Plan	Woods Bagot	22 December 2015
DA-1206	D	B6 plan	Woods Bagot	10/09/2021 (dated)
DA-1207	G	B3-B5 plans	Woods Bagot	10/09/2021 (dated)
DA-1208	H	B2 plan	Woods Bagot	22/06/2022 (dated)
DA-1209	H	Lower Ground plan	Woods Bagot	07/07/2023
DA-1210	H	Upper Ground plan	Woods Bagot	07/07/2023
DA-1211	G	Commercial plan	Woods Bagot	10/09/2021 (dated)
DA-1212	B	L02 plan	Woods Bagot	22/06/2022 (dated)
DA-1214	A	L04 plan	Woods Bagot	22/06/2022 (dated)
DA-1218	K	L03 - 08 plan	Woods Bagot	22/06/2022 (dated)
DA-1219	H	L09 plan	Woods Bagot	22/06/2022 (dated)
DA-1220	I	L10-L15 Typical Mid	Woods Bagot	22/06/2022 (dated)
DA-1226	B	L16-22 Typical Upper	Woods Bagot	22/06/2022 (dated)
DA-1232	J	L23 plan	Woods Bagot	22/06/2022 (dated)
DA-1233	G	L24 plan	Woods Bagot	22/06/2022 (dated)
DA-1234	J	L25 plan	Woods Bagot	22/06/2022 (dated)
DA-1235	K	L26 plan	Woods Bagot	22/06/2022 (dated)
DA-1236	E	L27 plan	Woods Bagot	10/09/2021 (dated)
DA-1237	F	L28 plan	Woods Bagot	10/09/2021 (dated)
DA-1238	D	L29 plan + plant	Woods Bagot	10/09/2021 (dated)
DA-1300	H	North elevation	Woods Bagot	10/09/2021 (dated)
DA-1301	K	South elevation	Woods Bagot	07/07/2023
DA-1302	H	East elevation	Woods Bagot	10/09/2021 (dated)
DA-1303	H	West elevation	Woods Bagot	10/09/2021 (dated)
DA-1310	G	Site Section	Woods Bagot	10/09/2021 (dated)
DA-1311	G	Site Long Section	Woods Bagot	10/09/2021 (dated)
DA-2903	F	Type 3 Adaptable Unit	Woods Bagot	10/09/2021 (dated)
DA-2904	F	Type 4 Adaptable Unit	Woods Bagot	10/09/2021 (dated)
DA-2905	C	Type 5 Adaptable Unit	Woods Bagot	10/09/2021 (dated)
DA-2906	C	Type 6 Adaptable Unit	Woods Bagot	10/09/2021 (dated)
DA-2907	C	Type 7 Adaptable Unit	Woods Bagot	10/09/2021 (dated)
DA-9200	B	External Finishes	Woods Bagot	27/01/2021 (dated)
L-DA-15	Q	Landscape Design Framework	Turf	18/07/2023
L-DA-16	Q	Landscape Masterplan	Turf	18/07/2023
L-DA-17	Q	Lower ground	Turf	18/07/2023
L-DA-18	Q	Upper ground	Turf	18/07/2023
L-DA-19	Q	Design Sections	Turf	18/07/2023
L-DA-20	Q	Design Sections	Turf	18/07/2023
L-DA-21	Q	Level 2	Turf	18/07/2023
L-DA-22	Q	Level 9	Turf	18/07/2023
L-DA-23	Q	Rooftop	Turf	18/07/2023
L-DA-24	Q	Typical sections	Turf	18/07/2023
L-DA-25	Q	Wall material plan	Turf	18/07/2023
L-DA-26	Q	Soil depth	Turf	18/07/2023

L-DA-27	Q	Soil depth	Turf	18/07/2023
L-DA-28	Q	Softscape	Turf	18/07/2023
L-DA-29	Q	Streetscape works	Turf	18/07/2023
L-DA-30	Q	Indicative materials	Turf	18/07/2023
L-DA-31	Q	Indicative ground level character	Turf	18/07/2023

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

2. Delete Condition E15 and Replace it with the Following Condition:

Construction Hours

E15. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
E2 Commercial Centre Zone MU1 Mixed-Use Zone	Monday - Friday	7.00 am - 7.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

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

3. To insert the additional condition after E15:

Extended Construction Hours - Trial Period

E15A. Notwithstanding **Condition E15** above, construction hours may be extended on Monday to Thursday, 7.00pm-10.00pm for internal fit-out works only on a trial basis.

The trial period shall commence upon issue of the first relevant construction certificate (i.e., that authorises any internal fit-out work) and expire 6 months after the date of issue of that construction certificate. Council must be informed in writing of the date of commencing the trial period.

Before the trial period expires, the applicant must make further application to modify the consent, to extend the trial period for a specified period, or to enable the extended hours until completion of the development (i.e. issue of the final occupation certificate), or as may be deemed appropriate by Council.

For the extension of construction hours to be continued beyond the 6-month trial, a further application to modify the consent must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue construction hours in accordance with the trial, will consider amongst other things, the impact of the internal fit out works in relation to compliance with other development consent conditions and maintaining the amenity of the locality.

In the event that no modification application is lodged, or an application is not approved, then the construction hours will revert to the construction hours specified by **Condition E15** of this consent.

(Reason: To protect the amenity of surrounding areas)

4. To amend Condition G10 of the consent so as to read as follows:

Landscaping

G10. The landscaping shown in the approved landscape plans:

Plan No.	Rev.	Title	Drawn by	Dated/Received
L-DA-15	Q	Landscape Design Framework	Turf	18/07/2023
L-DA-16	Q	Landscape Masterplan	Turf	18/07/2023
L-DA-17	Q	Lower ground	Turf	18/07/2023
L-DA-18	Q	Upper ground	Turf	18/07/2023
L-DA-19	Q	Design Sections	Turf	18/07/2023
L-DA-20	Q	Design Sections	Turf	18/07/2023
L-DA-21	Q	Level 2	Turf	18/07/2023
L-DA-22	Q	Level 9	Turf	18/07/2023
L-DA-23	Q	Rooftop	Turf	18/07/2023
L-DA-24	Q	Typical sections	Turf	18/07/2023
L-DA-25	Q	Wall material plan	Turf	18/07/2023
L-DA-26	Q	Soil depth	Turf	18/07/2023
L-DA-27	Q	Soil depth	Turf	18/07/2023
L-DA-28	Q	Softscape	Turf	18/07/2023
L-DA-29	Q	Streetscape works	Turf	18/07/2023
L-DA-30	Q	Indicative materials	Turf	18/07/2023
L-DA-31	Q	Indicative ground level character	Turf	18/07/2023

must be completed prior to the issue of the relevant Occupation Certificate.

(Reason: To ensure compliance)

5. To delete Condition G13.

6. To amend Condition 12 of the consent so as to read as follows:

Use of Car Parking Spaces

12. A maximum of 362 car parking spaces shall be provided on site.

The spaces are to be allocated as follows:

- 352 spaces to residential apartments including 61 adaptable spaces.
- 7 spaces to the commercial/retail
- 1 space for car wash bay
- 2 spaces for car share

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Reasons for Approval:

The proposed modifications are consistent with the originally approved development application and s.4.55 (1A) of *the EP&A Act 1979*. Furthermore, the modifications do not result in any material amenity-impact to adjoining properties or the surrounding area, as recommended. The proposed modifications are consistent with the reasons for the granting of development consent to the originally approved development and are acceptable.

The application is, therefore, recommended for **approval**.

How community views were taken into account:

The proposed development is considered to be in the public interest for the reasons stated throughout this report.

The conditions attached to the original consent for Development Application No. **486/15** by endorsed date of **12 July 2016** still apply.

ADVISINGS

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

20 February 2024

DATE



Signature on behalf of consent authority
DAMON KENNY
EXECUTIVE PLANNER (ASSESSMENTS)