



Mr John Lee
JKL Design
37 North Parade
CAMPSIE NSW 2194

D169/23
RW (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 169/23/2 - APPROVAL**

Development Consent Number: 169/23

Land to which this applies: Level 4, 213-219 Miller Street, North Sydney
Lot No.: 3, DP: 237745

Applicant: John Lee

Proposal: Change of use to an educational establishment and associated fitout of Level 4 for an English college with increase in total student numbers.

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. **169/23** and registered in Council's records as Application No. **169/23/2** relating to the land described as **Level 4, 213-219 Miller Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **1 September 2023**, has been determined in the following manner:

A. Add Condition A5 as follows:

Development in Accordance with Plans (s4.55 Amendments)

A1. The development being carried out in accordance with plans identified in Condition A1 of the consent and A8 of the modification to consent endorsed with Council's approval stamp, except as modified by the modifications shown on:

Plan No.	Rev	Description	Prepared by	Dated
896-3	C	Proposed Demolition Plan	JKL Design	15/11/2023
896-4	C	Proposed Floor Plan	JKL Design	15/11/2023
896-5	C	Proposed Reflected Ceiling Plan	JKL Design	15/11/2023
896-6	C	Proposed Section	JKL Design	15/11/2023

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

A. Modify Condition A5 as follows:

Student Numbers for Level 4

A5. The approved educational establishment on Level 4 shall have a maximum capacity of ~~twenty-one (21)~~ ten (10) staff and ~~240~~ 190 students on site at any one time.

(Reason: To clarify the terms of consent which apply to Level 4)

Reasons for Approval:

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP&A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

The modifications consisting of a reduction in student and staff numbers and minor interior fitout works are proposed to lessen the requirements of a Performance Solution Development by the engaged Fire Safety Engineer. Compliance can be achieved with the Performance Requirements of the BCA in this proposal.

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

How community views were taken into account:

No submissions were received during the 14-day notification period.

The conditions attached to the original consent for Development Application No. **169/23** by endorsed date of **1 September 2023** still apply.

ADVISINGS

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

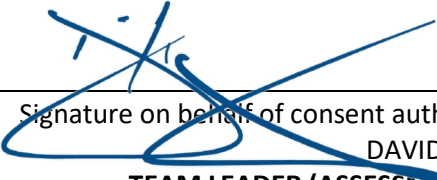
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) 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

15 February 2024

DATE


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