



The Trustee for Victoria  
Plaza Unit Trust  
C/ - Robinson Urban Planning  
83 Fletcher Street  
TAMARAMA NSW 2026

D48/22  
RW (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 48/22/2 - APPROVAL**

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**Development Consent Number:** 48/22

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**Land to which this applies:** 77 Berry Street, North Sydney  
Lot Nos.: 13 & 14, DP: 1251891

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**Applicant:** The Trustee for Victoria Plaza Unit Trust

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**Proposal:** To modify Conditions A1, delete Condition A4 and C1, and modify Condition G4 of consent DA48/22 relating to changes to the number and location of business identification signs at Lot 13 and Lot 14 in DP 1251891. To amend the land to which the original consent applies to be Lot 13 and Lot 14 in DP 1251891.

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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. **48/22** and registered in Council's records as Application No. **48/22/2** relating to the land described as 77 Berry Street, North Sydney.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **3 August 2022**, 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 A5 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
MP_001	H	Masterplan	There Design Pty Ltd	30/01/2024
GEN_001	D	Signage Hierarchy	There Design Pty Ltd	1/12/2021

S1_001	F	S1_Retail Totem	There Design Pty Ltd	4/12/2023
S1_002	G	S1_Retail Totem Location	There Design Pty Ltd	30/01/2024
S2_002	D	S2_Building ID Entrance	There Design Pty Ltd	1/12/2021
S3_001	D	S3_Retail Tenant ID Colonnade	There Design Pty Ltd	1/12/2021
P1_001	C	P1_Placemaking	There Design Pty Ltd	2/12/2021
P1_002	C	P1_Placemaking	There Design Pty Ltd	2/12/2021

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

**B. Delete Conditions A4 and C1 as follows:**

**Terms of Consent**

~~A4. Approval is granted in this consent (D48/22) to the following:~~

- ~~a) 1 x wayfinding totem board sign, with an overall height of 2.4m and width of 600mm, with illumination via internally fitted LEDs. The totem board sign is to be located at a maximum distance of 200mm from the wall of the garden bed. These amendments to reduce the height of the sign and to alter its location are to be detailed on the plans submitted with the construction certificate. These amendments are required to reduce the prominence of the sign and to locate it appropriately within the landscaped setting.~~
- ~~b) 1 x building identification sign, showing '77 BERRY', with dimensions of 560mm in height and 400mm in length, to be located on the northern elevation above the existing lobby entrance at a height of approximately 3.1m above the existing ground level.~~
- ~~c) 2 x business identification signs which are projecting wall signs showing 'CAFÉ' and symbol of cup and saucer to be located in two locations on columns at the northern colonnade facing towards the approved café/restaurant entrance, at a height of 2.4m. Sign dimensions: 450mm in height and 1000mm in length.~~
- ~~d) 2 x placemaking signs, showing 'BERRY SQUARE' with dimensions of 1500mm in length and 200mm in width, integrated into the approved low level stone seating within Berry Square.~~
- ~~e) No consent is granted to the wall signs for the Berry Square Café listed at (c) above until the DA consent under DA 383.2019.3 has been activated.~~

~~No approval is given or implied in this consent for any other works both internal and external within the subject property.~~

~~(Reason: To ensure the terms of the consent are clear)~~

**Amendments to Totem Board Signage Details on the Plans**

~~C1. The height of the wayfinding totem board sign is to be reduced from 3.0m to an overall height of 2.4m and width of 600mm. Its location is to be amended so that it is located at a maximum distance of 200mm from the wall of the garden bed. These amendments to reduce the height of the sign and to alter its location are to be detailed on the plans submitted with the construction certificate.~~

~~(Reason: These amendments are required to reduce the prominence of the sign and to locate it appropriately within the landscaped setting and streetscape)~~

C. Amend Condition G4 as follows:

**Compliance with Certain Conditions**

G4. Prior to the issue of any Occupation Certificate, **Conditions ~~C1~~, C8, I1 and I2** must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

**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 grant of development consent to the originally approved development and is considered to be acceptable.

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 notification was required for this modification proposal due to minimal impact on adjoining properties and the environment.

The conditions attached to the original consent for Development Application No. **48/22** by endorsed date of **3 August 2022** still apply.

**ADVISINGS**

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

**14 March 2024**

DATE

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