

Original signed by: Kim Rothe Dated: 28/3/2018

CE Concepts Pty Ltd
Level 26, 100 Miller Street
NORTH SYDNEY NSW 2059

D451/16
KRR(CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (AS AMENDED)

**Notice to Applicant of Determination of Request
to Modify a Development 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. **451/16** and registered in Council's records as Application No. **451/16/3** relating to the land described as **353-361 Miller Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 July 2017, has been determined in the following manner:-

1. To amend Conditions A1, A3, C29, C33, C34, C36, E14 and G20 as follows:-

A1 Development in Accordance with Plans (Section 96 Amendments)

DA451/16 Approved Plans

Plan No.	Issue	Title	Dated	Drawn by	Received
DA 000	C	Cover sheet	03.04.2016	PBD Architects	07.04.2017
DA 001	B	Demolition Plan	15.12.2016	PBD Architects	16.12.2017
DA 002	C	Site Analysis	22.06.2017	PBD Architects	22.06.2017
DA 101	D	Basement Level Plan	03.04.2017	PBD Architects	07.04.2017
DA 102	D	Ground Floor Plan	03.04.2017	PBD Architects	07.04.2017
DA 103	E	Level 1 Floor Plan	14.06.2017	PBD Architects	14.06.2017
DA 104	E	Level 2 Floor Plan	14.06.2017	PBD Architects	14.06.2017
DA 105	E	Level 3 Floor Plan	14.06.2017	PBD Architects	14.06.2017
DA 106	D	Roof Terrace Plan	03.04.2017	PBD Architects	07.04.2017
DA 106	D	Roof Plan	03.04.2017	PBD Architects	07.04.2017
DA200	D	West Elevation	03.04.2017	PBD Architects	07.04.2017
DA201	D	North Elevation	03.04.2017	PBD Architects	07.04.2017
DA202	D	East Elevation	03.04.2017	PBD Architects	07.04.2017
DA203	E	South Elevation	14.06.2017	PBD Architects	14.06.2017
DA 300	D	Sections AA	03.04.2017	PBD Architects	07.04.2017
DA 301	C	Sections BB	22.06.2017	PBD Architects	22.06.2017
DA 302	D	Sections CC	03.04.2017	PBD Architects	07.04.2017
Project NumberG 0160796 Sheets C1-C5	E	Stormwater Management Plans	30.03.2017	Accor Consultants	07.04.2017

DA451/16/3 Approved Plan List

Plan No.	Issue	Title	Dated	Drawn by	Received
DA 000	A	Cover sheet	24.11.2017	PBD Architects	30.11.2017
DA 002	A	Site Analysis	24.11.2017	PBD Architects	30.11.2017
DA 101	A	Basement Level Plan	24.11.2017	PBD Architects	30.11.2017
DA 102	A	Ground Floor Plan	24.11.2017	PBD Architects	30.11.2017
DA 103	A	Level 1 Floor Plan	24.11.2017	PBD Architects	30.11.2017
DA 104	A	Level 2 Floor Plan	24.11.2017	PBD Architects	30.11.2017
DA 105	A	Level 3 Floor Plan	24.11.2017	PBD Architects	30.11.2017
DA 106	A	Roof Terrace Plan	24.11.2017	PBD Architects	30.11.2017
DA 107	A	Roof Plan	24.11.2017	PBD Architects	30.11.2017
DA200	A	West Elevation	24.11.2017	PBD Architects	30.11.2017
DA201	A	North Elevation	24.11.2017	PBD Architects	30.11.2017
DA202	A	East Elevation	24.11.2017	PBD Architects	30.11.2017
DA203	A	South Elevation	24.11.2017	PBD Architects	30.11.2017
DA 300	A	Sections AA	24.11.2017	PBD Architects	30.11.2017
DA 301	A	Sections BB	24.11.2017	PBD Architects	30.11.2017
DA 302	A	Sections CC	24.11.2017	PBD Architects	30.11.2017

External Finishes & Materials

- A3. External finishes and materials must be in accordance with Plan Numbered DA 400 External Finishes Revision A, dated 24 November 2017 and received at Council on 30 November 2017, unless otherwise modified by Council in writing.

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

Tree Bond for Public Trees

- C29. Prior to the issue of any construction certificate, security in the sum of \$8,000.00 must be provided to Council for the replacement of trees in public places. The security is to be provided in accordance with the Schedule below.

The security must be provided by way of:

- a deposit with the Council; or
- a guarantee satisfactory to Council (such as a satisfactory bank guarantee with no expiry date).

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

In the case the trees cannot be replaced as per the schedule below, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

- 2 x Lagerstroemia indica (Tuscarora) located on Council's footpath replacement specimens to be a minimum 200L pot.

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Section 94 Contributions

- C33. A *revised* contribution pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act 1979, as specified under the North Sydney Section 94 Contribution Plan for the services detailed in column A and, for the amount detailed in column B shall be made to Council.

A	B
Administration	\$1,474.81
Community Centres	\$6,695.42
Childcare Facilities	\$2,554.58
Library and Local Studies Acquisitions	\$1,249.24
Library Premises and Equipment	\$3,863.54
Multi Purpose Indoor Sports Facility	\$1,055.04
Olympic Pool	\$3,436.16
Open Space Acquisitions	\$42,109.90
Open Space Increased Capacity	\$83,469.46
North Sydney Public Domain	\$ -
St Leonards Public Domain Improvements	\$ -
Public Domain Improvements	\$3,299.40
Traffic Improvements	\$4,050.12
Total	\$153,257.67

The contribution SHALL BE paid prior to determination of the application for Construction Certificate.

The above amount, if not paid within one calendar year of the date of this consent, shall be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

Security Deposit/ Guarantee Schedule

C34. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Street Tree Bond	\$8,000.00
Drainage Damage Bond	\$52,000.00
Engineering Construction Bond	\$47,000.00
TOTAL BONDS	\$107,000.00

Note: The following fees applicable

Fees	Amount
Section 94 Contribution	\$153,257.67
TOTAL FEES	\$153,257.67

(Reason: Compliance with the development consent)

BASIX Certificate

C36. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. *775576M_03* for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government’s requirements for sustainability and statutory requirements)

Removal of Trees on Public Property

E14. The removal of all trees on the public footway in front of the sites on Miller Street on public property (footpaths, roads, reserves, etc.) is permitted by this consent. All other trees adjacent to the site on public property must be protected under the terms of this consent.

(Reason: To clarify the terms of the consent)

Required Tree Planting

G20. On completion of works and prior to the issue of an Occupation Certificate trees in accordance with the schedule hereunder must be planted in Council’s nature strip/footpath: -

Schedule

Tree Species	Location	Pot Size
2 x Lagerstroemia indica (Tuscarora)	To replace removed trees 2 and 3 of Condition E14	200L

The installation of such trees, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure that replacement plantings are provide to enhance community landscaped amenity and cultural assets)

The conditions attached to the original consent for Development Application No. 451/16 by endorsed date of 5 July 2017 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (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 Certifying Authority 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 & 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 & Assessment Act.

DATE

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