

Development Consent No. 429/16

Section 4.55 Application

Applicant's Name

Senses Milsons Point Pty Ltd

Land to which this applies

48-50 Alfred Street, Milsons Point
Lot No.: 15, SP: 40513 and Lot No.: 1, SP: 738322

Proposal

Expansion of approved childcare centre outdoor play area into adjacent terrace.

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. **429/16** and registered in Council's records as Application No. **429/16/2** relating to the land described as **48-50 Alfred Street, Milsons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 July 2017, has been determined in the following manner: -

1. Condition A1 is modified as follows:

Development in Accordance with Plans (*Section 4.55 Amendments*)

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

Plan No.	Issue	Dated	Title	Drawn by	Received
DA.030A	A	30/11/16	Site Access Plan	Nordon Jago Architects	6/12/16
DA.040A	A	30/11/16	Existing and Demolition Plan	Nordon Jago Architects	6/12/16
DA.100E	E	22/3/17	Proposed Lower Ground Floors Plan	Nordon Jago Architects	23/3/17
DA.090A	A	30/11/16	Parking	Nordon Jago Architects	23/3/17
DA.150A	A	30/11/16	Signage	Nordon Jago Architects	6/12/17
DA.160A	A	30/11/16	Fibre Optic Lighting Plan	Nordon Jago Architects	6/12/17

DA.200A	A	30/11/16	Proposed Sections	Nordon Jago Architects	6/12/17
	Final	17/11/16	Playspace/landscape design plan plus sample board 1 and 2	Tessa Rose	6/12/16
Evacuation Plans Playrooms 1 - 5		17/3/17	Evacuation Plan Playrooms 1-5	First Five Minutes	23/3/17
Plan of Management		1/12/16	Kiddibilli Childcare Plan of Management	Childcare by Design Pty Ltd	6/12/17
Doc Id 160374	C	24/12/16	Kiddibilli Child Care Centre Milsons Point Development Application	JHA	6/12/17

DA429/16/2 Plan references

Plan No.	Issue	Dated	Title	Drawn by	Received
AR.S96.01	A	14/11/17	Site Plan	Two form	5/12/17
AR.S96.02	A	14/11/17	Floor Plan	Two form	5/12/17
AR.S96.03	A	14/11/17	Roof Plan	Two form	5/12/17
AR.S96.04	A	14/11/17	Elevation A and B	Two form	5/12/17

except as amended by the following conditions and this consent.

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

2. Condition I16 is inserted as follows:

Operation of External Terrace

I16. The operation of the external terrace the subject of DA429/16/2 and the following plans Drawings numbered AR.S96.01 - AR.S96.04 Rev. A, issued by two form Architecture + Interior Design, dated Nov 2017 must be in accordance with following requirements and generally in accordance with the approved Plan of Management and The Evacuation Plan:

The terrace operation at all times is required to comply with the following:

1. The maximum number of children outdoors on the terrace shall be limited to 10 children.
2. The proposed hours of operation for the outdoor area shall be between 9am & 5pm.
3. The activities outdoors can include small group play, gardening etc. Space will have dedicated adult supervision with at least one adult always present whenever children are in this area.
4. synthetic turf is to be installed over existing terrace tiling.
5. Install a shade sail fixed to posts and back to perimeter wall to provide acoustic attenuation for the balconies directly above

(Reason: To ensure operation and management of the child care centre in accordance with the approved Plans of Management)

Reason for approval

The development as modified is considered to be substantially the same development as approved. The modifications do not create any additional adverse impacts on surrounding development. The use remains the same as approved with the exception of the layout changes and utilisation of area which would otherwise not have the benefit of any practicable use. There is no alteration to the number of children to attend the centre of parking and access methodology.

Having regard to the provisions of Section 4.55 of the EP&A Act 1979, the application as modified is considered to be satisfactory, subject to conditions of consent.

How were community views taken into account in making the decision

The proposal was notified and advertised in accordance with Part A, Section 4 Notification of Applications of North Sydney DCP 2013. Relevant matters raised in submissions were taken into consideration during the assessment of the development application. The concerns received in the submission were adequately addressed by the consent condition.

The conditions attached to the original consent for Development Application No. 429/16 by endorsed date of 7 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)