

## Development Consent No. 163/18

### Section 4.55 Application

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#### Applicant's Name

Yuhu Group (Australia) Pty Ltd

#### Land to which this applies

221 Miller Street, North Sydney  
Lot No.: 1, DP: 846323

#### Proposal

To modify consent for Stratum Subdivision into 3 lots; Strata subdivision of Lot 202.

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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. **163/18** and registered in Council's records as Application No. **163/18/2** relating to the land described as **221 Miller Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 August 2018, has been determined in the following manner:

#### **To delete condition A1 and insert the following new condition:**

#### **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 of this consent.

Plan No.	Issue	Title	Drawn by	Received
Sheets 1-2	Draft 21/2/2018	Proposed Subdivision Lot 100 DP 1239718	Robert Seymour Davidson	1 June 2018
Sheets 1-8	Draft 21/2/2018	Proposed Subdivision Lot 100 DP 1239718	Robert Seymour Davidson	1 June 2018
Sheets 1-6	Draft 23/5/2018	Strata Subdivision of Lot 202 DP 1219569	Robert Seymour Davidson	15 October 2018
Sheets 1-26	Draft 23/5/2018	Strata Subdivision of Lot 202 DP 1219569	Robert Seymour Davidson	15 October 2018

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

**To amend the J conditions heading to read:**

***J. Subdivision Certificate (Land/ Torrens/ Stratum)***

**To delete condition J8 and insert the following new condition:**

**Release of Subdivision Certificate**

J8. A Subdivision Certificate must not be issued until Council is satisfied that the relevant conditions relating to subdivision stated in this consent have been satisfied.

(Reason: To ensure that the development is completed to an acceptable standard prior to registration)

**To amend the K conditions heading to read:**

***K. Strata Certificate***

**To delete condition K1 and insert the following new condition:**

**Registered Plans (Strata)**

K1. The applicant must, to the satisfaction of Council, submit documentary evidence that the Strata Plan has been registered and the lot(s) exists. The use of the premise must not commence until the documentary evidence has been submitted to and approved by Council.

(Reason: To ensure that the allotments of land are created prior to the commencement of the approved use)

**Reason 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. 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.

Having regard to the provisions of section 4.55 & 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 were community views taken into account in making the decision**

Notification was not required under Council's notification policy.

The conditions attached to the original consent for Development Application No. 163/18 by endorsed date of 2 August 2018 still apply.

**ADVISINGS**

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

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DATE

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Signature on behalf of consent authority  
GEOFF MOSSEMENEAR  
EXECUTIVE PLANNER