

## Development Consent No. 70/18

### Section 4.55 Application

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#### Applicant's Name

Zurich Australian Property Holdings Pty Ltd

#### Land to which this applies

118 Mount Street, North Sydney  
Lot No.: 1, DP: 635642

#### Proposal

To modify consent for 29 Storey commercial building.

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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. **70/18** and registered in Council's records as Application No. **70/18/3** relating to the land described as **118 Mount Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 September 2018, has been determined in the following manner:

#### **To delete condition E14 and add the following new condition namely:**

#### **Construction Hours**

E14. Building construction and works must be restricted to within the hours of 7.00 am to 6.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 5.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 6.00 pm Monday to Friday only.

Permissible building works between the hours of 1:00 pm and 5:00 pm on Saturdays are limited to the following:

- Services installation;
- Jumpform works;
- Formwork and reinforcement installation;
- Concrete finishing works;
- Survey;

- Basement blockwork installation;
- Substation works in basement;
- Podium & lobby works;
- Façade installation;
- Crane and hoist operations;
- Plant room and lift works; and
- Finishing trades in tower.

No external building works, no deliveries to the site, or no use of the external elevator shall be undertaken outside the standard construction hours of 7:00 am to 6:00 pm, Monday to Friday, and 8:00 am to 1:00 pm on Saturdays. The use of jackhammers and other noise generating machinery is strictly prohibited after 1.00pm on Saturdays.

NOTES: For the purposes of this condition:

“Building construction” means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.

“Demolition works” means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.

“Excavation work” means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

The builder shall prepare a Construction Noise Management Plan (CNMP) to include the following:

- identification of nearby residences and other sensitive land uses;
- description of approved hours of work and what work will be undertaken;
- description of what work practices will be applied to minimise noise; and
- description of the complaints handling process.

A copy of the CNMP shall be provided to Council.

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

A permanent register of all complaints received must be held by the applicant/builder and provided to Council upon Council’s request. Complaints shall be managed in accordance with the recommended Complaint Handling Procedure contained in the CNMP.

At Council's sole discretion, should complaints of noise be received from residential users in proximity to the site, particularly between 1.00pm and 5.00pm Saturdays, and the complaints can be justified, that excavation/construction work cease during these hours until such time as the site shows they can operate this activity without causing undue disturbance to residential premises.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

### **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. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The extended hours will reduce overall construction timeframes. 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**

The owners of adjoining properties and the CBD Precinct were notified of the proposed development on 11 January 2019. The notification resulted in no submissions, however, there was one submission received via the external web site "Planning Alerts" opposing any change.

The conditions attached to the original consent for Development Application No. 70/18 by endorsed date of 13 September 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