

Saul Moran  
Locked Bad 1400  
MEADOWBANK NSW 2114

D368/18  
GM (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 368/18/2 – APPROVAL**

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**Development Consent Number:** 368/18/2

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**Land to which this applies:** 86-88 Walker Street, North Sydney  
Lot No.: 1, DP: 1247547

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**Applicant:** Saul Moran

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**Proposal:** To modify consent for construction of a 48 storey hotel and office 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. **368/18** and registered in Council's records as Application No. **368/18/2** relating to the land described as **86-88 Walker Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 February 2019, has been determined in the following manner: -

*To replace conditions C8, C9, C14, C22, C26, C28, C30, C31 and C32 with the following new conditions namely:*

**Dilapidation Survey Private (Neighbouring Buildings)**

- C8. A photographic survey and dilapidation report of adjoining property No.100 Walker Street, detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of **the relevant** Construction Certificate. The survey and report is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of **the relevant** Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

### **Required Infrastructure Works –Roads Act 1993**

C9. Prior to issue of **the relevant** Construction Certificate, engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development.

Prior to the issue of **the relevant** Construction Certificate, North Sydney Council must issue the applicant with a road works permit. To obtain the permit, an application must be made to Council on a "*To Satisfy DA Consent Condition*" application form with payment of the adopted assessment/inspection fees.

The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative:

#### Road Works

Construction of a fully new replacement footpath from granite pavers is required across the entire site frontages in Spring Street and Little Spring Street. Repair/reconstruction is required in Walker Street if the existing footpath is damaged during the course of the development works.

- a) The footpath pavement must be constructed for the full width using the construction required in accordance with Council's current *Public Domain Style Manual and Design Codes*, for the North Sydney CBD area.
- b) A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line. The footpath shall be designed at a single straight grade of 3% falling to top of a new 150 mm granite kerb, so that it is uniform without showing signs of dipping or rising particularly at entrances.

- c) Construction of a new 150 mm high granite kerb and concrete gutter is required across the entire site frontages in Spring Street and Little Spring Street. Repair/reconstruction is required in Walker Street if the existing granite kerb and concrete gutter are damaged during the course of the development works. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- d) Footpath cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.
- e) Half road reconstruction (maximum grade 5% fall towards the new gutter) extending out from the gutter lip in AC10 - 50mm thick, adjacent to all new gutter works.
- f) Council reserves the right to insist on full width – full frontage road surface carriage way reconstruction on any street frontage which is damaged during building demolition and/or construction stages (assessment will be based on infrastructure dilapidation report).

The design for the public domain surrounding the site is to complement the design and materials palette outlined in the current North Sydney Public Domain Style Manual for the public domain surrounding the site. Designs for these areas must be submitted to Council for approval by Council's Director Engineering and Property Services prior to the issue of **the relevant** Construction Certificate.

The applicant must design the Walker Street, Spring Street and Little Spring Street frontages in consultation with Council's public domain officers and have regard to the North Sydney Council Public Domain Strategy for the pedestrianising of Spring Street. The ground levels at the property boundary and all works to the public domain must be approved by Council prior to the issue of **the relevant** Construction Certificate for required infrastructure works, or any building works interfacing with the required infrastructure.

#### Drainage Works

The diversion of the existing Sydney Water culvert is to be in accordance with Sydney Water requirements and to the satisfaction of Sydney Water. In this regard, the applicant must liaise directly with Sydney Water for approval to divert the existing Sydney Water culvert.

A copy of any Sydney Water approval to divert the existing Sydney Water culvert must be provided to Council, if Council is not the Certifying Authority, prior to the issue of **the relevant** Construction Certificate.

Connection of the site stormwater drainage system must be made (pending Sydney Water approval) via a direct connection to the proposed diverted Sydney Water culvert located within the property or alternatively, via a direct connection to an existing gully pit in Walker Street.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of **the relevant** Construction Certificate. Certifying Authorities must not issue **the relevant** Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998).

**Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

*Note: A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

### **Footpath, Entries and Fire Exit Details**

- C14. Footpaths, entries and exits and fire exits for the development must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of **the relevant** Construction Certificate. The design must include (but is not limited to) the following:
- a) cross section along the centre-line of each access point to the building including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed;
  - b) the sections must show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels;
  - c) the sections must show the calculated clearance to the underside of any overhead structure;
  - d) a longitudinal section along the boundary line showing how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath must be designed (at a single straight grade of 3% falling to top of kerb) so that it is smooth without showing signs of dipping or rising particularly at entrances; and

- e) A longitudinal section along the gutter and kerb line extending 5 meters past property lines showing transitions.

Details, plans and specifications complying with this condition are to be certified as complying with the Building Code of Australia (BCA) and Council's standard footpath specifications, and the certification, details, plans and specifications must be provided to the Certifying Authority for approval prior to the issue of **the relevant** Construction Certificate. Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to the Certifier and North Sydney Council, prior to issue of **the relevant** Construction Certificate.

(Reason: To facilitate suitable pedestrian and disabled access to private sites, and to ensure that internal levels reflect footpath boundary levels)

### **Provision of Accessible Paths of Travel**

- C22. The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of **the relevant** 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.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to **the relevant** Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

### **Pruning of Trees**

- C26. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

<b>Trees that may Require Pruning</b>	<b>Location</b>	<b>Height (m)</b>
2 x <i>Platanus x hybrida</i> (Plane Trees)	Walker Street frontage	20m, 20m

A report detailing the measures to be employed during construction shall be submitted to the Certifying Authority for approval prior to the issue of **the relevant** Construction Certificate.

All measures required by the said report must be complied with at all times in the carrying out of the development.

(Reason: To ensure the protection and longevity of existing significant trees)

### **Artwork**

C28. A public art consultant is to be engaged to design and integrate a commissioned artwork:

- a) That is a quality bespoke artwork on the new building form on the South Elevation (Spring Street) and to the West Elevation (Little Spring Street),
- b) that is a visually dynamic interpretation of the former use of the site as a Fire Station,
- c) that is a significant addition to the existing collection of public artworks in North Sydney
- d) provides a unique sense of place distinct to North Sydney's CBD
- e) that is contemporary in nature, innovative and create a unique aesthetic signature to the surrounding area.
- f) that is in accordance with the North Sydney Public Art Policy & Arts Plan as well as the North Sydney Arts Trail, and is
- g) to be to the satisfaction of Council's Conservation Planner and Team Leader, Arts & Culture

Written concurrence with this condition is to be provided to the certifying authority prior to the issue of **the relevant** construction certificate.

(Reason: To promote the significance and interpretation of the site as the first Fire Station on the North Shore.)

### **Sandstone Podium to the Walker St Elevation**

C30. Sandstone to the podium of the Walker St Elevation is to have a honed and/or martellato finish. The alignment of the contrasting metal strips and awnings should relate to the string course and parapet wall on the facade of the Fire Station Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of **the relevant** 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 be sympathetic to the character of the adjacent heritage item.)

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**Heritage Architect to be commissioned**

- C31. An appropriately qualified and experienced heritage architect must be commissioned to assist the design development, including the interpretative artwork, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to heritage matters.

Written details of the engagement of the experienced heritage architect must be submitted to the Certifying Authority prior to the issue of **the relevant** Construction Certificate.

Note: if advice provided by the heritage architect is to the effect that works requiring development consent be carried out, such works would require an application under s4.55 of the Environmental Planning and Assessment Act 1979 or further development application. This condition, and any advice given by the heritage architect, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to significant fabric and spaces are resolved and recorded using best practice for heritage conservation)

**Podium on Walker Street Elevation**

- C32. Podium to Walker St Elevation to have a height equal to that of the primary parapet wall of the Fire Station. The awning on the Walker St elevation is to have a direct relationship with the string course on the Fire Station. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of **the relevant** 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 be sympathetic to the character of the adjacent heritage item)

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**Reason for approval:**

The proposed modifications can be dealt with under s.4.55(1) of the EP & A Act 1979 as a misdescription. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. Notification of the application was not required under Council's notification Policy.

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**How community views were taken into account:**

Notification was not required under Council's policy.

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The conditions attached to the original consent for Development Application No. 368/18 by endorsed date of 13 February 2019 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.
- (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 & 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.

**Endorsed for and on behalf of North Sydney Council**

\_\_\_\_\_  
DATE

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Signature on behalf of consent authority  
**GEOFF MOSSEMENEAR  
EXECUTIVE PLANNER**