

Original signed by **Kim Rothe** on **16/4/19**

Vantage 229 Pty Ltd  
Suite 11, 20 Young Street  
NEUTRAL BAY NSW 2089

D487/15  
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 487/15/5 – APPROVAL**

**Development Consent Number:** 487/15

**Land to which this applies:** 229 Miller Street, North Sydney  
Lot No.: 2, DP: 413518

**Applicant:** Vantage 229 Pty Ltd

**Proposal:** Section 4.55(2) to Modify DA 487/15 for various modification to an approved mixed use building including changes to external finishes

At its meeting of 10 April 2019, the **Sydney North Planning Panel (SNPP)**, as the consent authority, considered SNPP Reference No. 2018SNH054 – North Sydney – Section 4.55 Application No. **487/15/5**.

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. **487/15** and registered in Council's records as Application No. **487/15/5** relating to the land described as **229 Miller Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 18 November 2016, has been determined in the following manner: -

**1. To amend Conditions A1, A3, G14, G18, I6, as follows: -**

**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.

Dwg No.	Drawing Title	Rev	Drawn by	Dated	Received
DA02	Site Plan	A	PA Studio	2 August 2018	10 August 2018
DA03	Basement 4	A	PA Studio	2 August 2018	10 August 2018
DA04	Basement 3	A	PA Studio	2 August 2018	10 August 2018
DA05	Basement 2	A	PA Studio	2 August 2018	10 August 2018
DA06	Basement 1	B	PA Studio	2 August 2018	10 August 2018
DA07	ROW Carpark Entry Level	A	PA Studio	2 August 2018	10 August 2018
DA08	Commercial Level	A	PA Studio	2 August 2018	10 August 2018

DA09	Ground Level	C	PA Studio	2 October 2018	7 November 2018
DA10	Level L1	A	PA Studio	2 August 2018	10 August 2018
DA11	Level L2	A	PA Studio	2 August 2018	10 August 2018
DA12	Level L3	A	PA Studio	2 August 2018	10 August 2018
DA13	Level L4	A	PA Studio	2 August 2018	10 August 2018
DA14	Level L5	A	PA Studio	2 August 2018	10 August 2018
DA15	Level L6	A	PA Studio	2 August 2018	10 August 2018
DA16	Level L7	A	PA Studio	2 August 2018	10 August 2018
DA17	Level L8	A	PA Studio	2 August 2018	10 August 2018
DA18	Level L9	A	PA Studio	2 August 2018	10 August 2018
DA19	Level L10	A	PA Studio	2 August 2018	10 August 2018
DA20	Level L11	A	PA Studio	2 August 2018	10 August 2018
DA21	Level L12	A	PA Studio	2 August 2018	10 August 2018
DA22	Level L13	C	PA Studio	2 October 2018	7 November 2018
DA23	Level L14	C	PA Studio	2 October 2018	7 November 2018
DA24	Level L15	C	PA Studio	2 October 2018	7 November 2018
DA25	Level L16	C	PA Studio	2 October 2018	7 November 2018
DA26	Level L17	C	PA Studio	2 October 2018	7 November 2018
DA27	Level 18	C	PA Studio	2 October 2018	7 November 2018
DA28	Roof Level	C	PA Studio	2 October 2018	7 November 2018
DA29	Public Domain and alterations to 231 Miller Street	A	PA Studio	16 December 2016	20 December 2016
DA30	Public Domain and alterations to 231 Miller Street	A	PA Studio	16 December 2016	20 December 2016
DA31	North and South Elevations	A	PA Studio	2 August 2018	10 August 2018
DA32	East and West Elevations	A	PA Studio	2 August 2018	10 August 2018
502	North Elevation	4	PA Studio	23 November 2018	25 January 2019
503	East Elevation	4	PA Studio	23 November 2018	25 January 2019
504	South Elevation	7	PA Studio	20 December 2018	25 January 2019
505	West Elevation	2	PA Studio	23 November 2018	25 January 2019
DA37	Section S1 Looking East	B	PA Studio	22 May 2017	22 May 2017
DA38	Section S2 Looking North	B	PA Studio	22 May 2017	22 May 2017
DA40	Schedule of Materials and Finishes	E	PA Studio	19 December 2018	25 January 2019
DA401	Schedule of Materials and Finishes 2	A	PA Studio	2 August 2018	25 January 2019
DA44	Demolition, Erosion + Sediment Control	A	PA Studio	16 December 2016	20 December 2016
DA70	Mesh Screen Detail	A	PA Studio	16 December 2016	20 December 2016
DA71	Winter Garden Detail	A	PA Studio	16 December 2016	20 December 2016
DA72	Typical Winter garden	A	PA Studio	16 December 2016	20 December 2016
DA45	Adaptable units: L5 – L16	A	PA Studio	16 December 2016	20 December 2016
DA46	Adaptable units: L13 – L15	A	PA Studio	16 December 2016	20 December 2016

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

*(Condition A1 Modified per DA487/15/2 Consent dated 14.6.17)*

*(Condition A1 Modified per DA487/15/5 Consent dated 10.4.19)*

### **External Finishes & Materials**

A3. External finishes and materials must be in accordance with the submitted *schedule of Plan Numbered DA40 Revision E Schedule of Materials and Finishes dated 19 December 2018 and DA401 Revision A Schedule of Materials and Finishes 2 prepared dated 2 August 2018 by PA Studios and received by Council on 25 January 2019* 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, **SNPP**, Public Information)

*(Condition A3 Modified per DA487/15/2 Consent dated 14.6.17)*

*(Condition A3 Modified per DA487/15/5 Consent dated 10.4.19)*

### **Landscaping**

G14. The landscaping shown in the approved landscape plan numbered 000, 101, 102, 103 & 501 (*All revision D*) prepared by Site Image received by Council on **10 August** 2018 must be completed prior to the issue of any Occupation Certificate.

Note: approved landscaping relates to landscaping with the site only and not to any landscaping depicted outside of the property boundaries.

(Reason: To ensure compliance)

*(Condition G14 Modified per DA487/15/5 Consent dated 10.4.19)*

### **Allocation of Spaces**

G18. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

81	Residential
2	Commercial
15	Accessible
8	Motorbikes
1	Loading Bay
1	Car wash Bays

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement. ***Commercial parking is to remain allocated to the commercial tenancies***

Parking facilities must not at any time be *separately* allocated, sold, licensed or leased ***to any third parties*** and must ***remain allocated to residential or commercial uses within the building.***

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

*(Condition G18 Modified per DA487/15/2 Consent dated 14.6.17)*

*(Condition G18 Modified per DA487/15/5 Consent dated 10.4.19)*

### **Use of Common Room and restriction to non-trafficable roof areas**

I6. The Level 18 Common Room shall be restricted by the following requirements:

- (a) The common room may only be used in association with the residential use of the building, by residents and their guests only. Any use of the roof terrace / balcony shall cease between the hours of 10.00pm and 7am, 7 days per week;
- (b) ***The void area to the roof over the balcony / roof terrace is to remain open and not infilled with pergola / vergola / see through awning or otherwise infilled;***

- (c) No part of the terrace / balcony may have a fixed enclosure; and
- (d) The balcony / roof terrace shall be free of any the any umbrellas or any other *portable* shade devices.

All other roof areas designated as non-trafficable or green roof are not to be accessed or used for any other stipulated purpose nor accessed with the exception of basic access for maintenance purposes.

(Reason: To preserve the visual and acoustic amenity of surrounding development)

*(Condition I6 Modified per DA487/15/2 Consent dated 14.6.17)*

*(Condition I6 Modified per DA487/15/5 Consent dated 10.4.19)*

**2. To delete Condition I2.**

*(Condition I2 Deleted per DA487/15/5 Consent dated 10.4.19)*

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<b>Reason for approval:</b>	The Panel unanimously determined to approve the application for the following reasons: <ul style="list-style-type: none"><li>1. The amended application is substantially the same as the original proposal.</li><li>2. The amendment involves mainly a change of external material and the new materials comply with the Council's requirement of a maximum of 20% reflectivity.</li><li>3. The bulk of the building does not change.</li></ul>
<b>How community views were taken into account:</b>	The Council's notification of the proposal as modified attracted one (1) submission. The submission raised no fundamental concerns with the modification providing there was no alteration to the overall height of the building. This submission has subsequently been formally withdrawn.

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The conditions attached to the original consent for Development Application No. 487/15 by endorsed date of 18 November 2016 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.

- (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

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