

**Original signed by: David Hoy Dated: 19/6/2019**

Joan Fitzhardinge  
C/- Haviland Architects  
267 High Street  
WILLOUGHBY NSW 2068

D411/18  
HS1(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 411/18/2 – APPROVAL**

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**Development Consent Number:** 411/18

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**Land to which this applies:** Unit 10, 93 Ridge Street, North Sydney  
Lot No.: 10, SP: 46174

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**Applicant:** Joan Fitzhardinge, C/- Haviland Architects

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**Proposal:** Section 4.55 (1) modifications to DA 411/18 to delete Condition C8.

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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. **411/18** and registered in Council's records as Application No. **411/18/2** relating to the land described as **Unit 10, 93 Ridge Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 30 January 2019, has been determined in the following manner: -

1. Delete Condition C8.
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**Reason for approval:**

The proposed modifications in the form of a Section 4.55(1) application seeks to correct a minor error in DA 411/18, which included a draft condition of consent, which was not intended to be included in the consent with the requirements adequately met under Condition C9, which may be regarded as serving the intended purpose. The oversight of not deleting Condition C8 before granting consent was considered in part to be an error.

In order that the development consent be able to be acted on in accordance with the request of the applicant, it is recommended that the condition be deleted from the consent.

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

The development application, due to the minor nature of the proposal, was not required to be notified nor advertised pursuant to Part A, Section 4 of the North Sydney Development Control Plan 2013. The development will not have a material impact on surrounding buildings. The public interest will be served through the assessment of the application against the applicable controls.

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The conditions attached to the original consent for Development Application No. 411/18 by endorsed date of 30 January 2019 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Hugh Shouldice**. 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  
DAVID HOY  
**TEAM LEADER(ASSESSMENTS)**