

Original signed by: Lara Huckstepp Dated: 26/8/2019

Colliers International Project Management Pty Ltd
Level 30, Grosvenor Place
225 George Street
SYDNEY NSW 2000

D173/18
LH(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 173/18/3 – APPROVAL**

Development Consent Number: 173/18

Land to which this applies: 73 Miller Street, North Sydney
Lot No.: 38, DP: 868462

Applicant: Colliers International Project Management Pty Ltd

Proposal: To modify a development consent DA 173/18 to modify Condition C14 (Required Infrastructure Works – Roads Act, 1993)

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. **173/18** and registered in Council's records as Application No. **173/18/3** relating to the land described as **73 Miller Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 26 March 2019, has been determined in the following manner: -

1. To modify Condition C14 of the consent as follows:-

Required paving works

C14. Prior to issue of any 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:

- a. The footpath pavement along the northern setback adjacent to Gas Lane must be placed on a single straight grade of preferable 3.0% falling to the top of kerb. The footpath pavement must be constructed for the full width using **Shiva Gold – Honed paving, sourced from Mosaïque Stone, as detailed on the submitted Product Summary referred in this development consent.**

- b. The footpath pavement in the pedestrian right of way connecting Gas Lane and Blue Street must be constructed for the full width using **Shiva Gold – Honed paving, sourced from Mosaïque Stone, as detailed on the submitted Product Summary referred in this development consent.**

Note: The proposed paving material (Shiva Gold – Honed) does not comply with Council’s paving standard set out in Council’s adopted Public Domain Style Manual and Design Codes for North Sydney. The northern and eastern setback areas are located on private property (which provide public access) and the applicant accepts all public liability for the use of these footpath areas at all times.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any 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 ensure infrastructure works are designed and constructed to appropriate standards and requirements)

Reason for approval:

The proposed modifications are considered to be of minimal environmental impact and are consistent with the originally approved development application and S4.55(1A) for the EP & A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modification retains the intent of originally approved development and is considered to be acceptable.

Having regard to the provisions of Section 4.55(1A) & 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 community views were taken into account:

The proposed development involves only the modification of conditions requiring public domain works and in accordance with Section 4 NSDCP 2013, adjoining properties are not required to be notified.

The conditions attached to the original consent for Development Application No. 173/18 by endorsed date of 26 March 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

Signature on behalf of consent authority
**LARA HUCKSTEPP
EXECUTIVE PLANNER**