

Original signed by: Kim Rothe Dated: 19/9/2019

Vantage 229 Pty Ltd  
Suite 11, 20 Young Street  
NEUTRAL BAY NSW 2060

D487/15  
KRR(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 487/15/6 – APPROVAL**

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**Development Consent Number:** 487/15/6

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

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**Applicant:** Vantage 229 Pty Ltd

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**Proposal:** Modify DA 487/15 regarding changes to Levels 17 and 18 and roof level.

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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. **487/15** and registered in Council's records as Application No. **487/15/6** 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: -

- To amend Condition A1, C29, C38, I7, 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	<i>Ground Level</i>	<i>C</i>	<i>PA Studio</i>	<i>2 October 2018</i>	<i>7 November 2018</i>
DA10	<i>Level L1</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA11	<i>Level L2</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA12	<i>Level L3</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA13	<i>Level L4</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA14	<i>Level L5</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA15	<i>Level L6</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA16	<i>Level L7</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA17	<i>Level L8</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA18	<i>Level L9</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA19	<i>Level L10</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA20	<i>Level L11</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA21	<i>Level L12</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA22	<i>Level L13</i>	<i>C</i>	<i>PA Studio</i>	<i>2 October 2018</i>	<i>7 November 2018</i>
DA23	<i>Level L14</i>	<i>C</i>	<i>PA Studio</i>	<i>2 October 2018</i>	<i>7 November 2018</i>
DA24	<i>Level L15</i>	<i>C</i>	<i>PA Studio</i>	<i>2 October 2018</i>	<i>7 November 2018</i>
DA25	<i>Level L16</i>	<i>C</i>	<i>PA Studio</i>	<i>2 October 2018</i>	<i>7 November 2018</i>
<b>DA26</b>	<b><i>Level 17</i></b>	<b><i>B</i></b>	<b><i>PA Studio</i></b>	<b><i>23 May 2019</i></b>	<b><i>27 May 2019</i></b>
<b>DA27</b>	<b><i>Level 18</i></b>	<b><i>B</i></b>	<b><i>PA Studio</i></b>	<b><i>23 May 2019</i></b>	<b><i>27 May 2019</i></b>
<b>DA28</b>	<b><i>Roof Level</i></b>	<b><i>B</i></b>	<b><i>PA Studio</i></b>	<b><i>23 May 2019</i></b>	<b><i>27 May 2019</i></b>
DA29	Public Domain and alterations to 231 Miller Street	<i>A</i>	<i>PA Studio</i>	<i>16 December 2016</i>	<i>20 December 2016</i>
DA30	Public Domain and alterations to 231 Miller Street	<i>A</i>	<i>PA Studio</i>	<i>16 December 2016</i>	<i>20 December 2016</i>
DA31	<i>North and South Elevations</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
DA32	<i>East and West Elevations</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>10 August 2018</i>
<b>DA33</b>	<b><i>North Elevation</i></b>	<b><i>B</i></b>	<b><i>PA Studio</i></b>	<b><i>23 May 2019</i></b>	<b><i>27 May 2019</i></b>
<b>DA34</b>	<b><i>East Elevation</i></b>	<b><i>B</i></b>	<b><i>PA Studio</i></b>	<b><i>23 May 2019</i></b>	<b><i>27 May 2019</i></b>
<b>DA35</b>	<b><i>South Elevation</i></b>	<b><i>B</i></b>	<b><i>PA Studio</i></b>	<b><i>23 May 2019</i></b>	<b><i>27 May 2019</i></b>
<b>DA36</b>	<b><i>West Elevation</i></b>	<b><i>B</i></b>	<b><i>PA Studio</i></b>	<b><i>23 May 2019</i></b>	<b><i>27 May 2019</i></b>
502	<i>North Elevation</i>	<i>4</i>	<i>PA Studio</i>	<i>23 November 2018</i>	<i>25 January 2019</i>
503	<i>East Elevation</i>	<i>4</i>	<i>PA Studio</i>	<i>23 November 2018</i>	<i>25 January 2019</i>
504	<i>South Elevation</i>	<i>7</i>	<i>PA Studio</i>	<i>20 December 2018</i>	<i>25 January 2019</i>
505	<i>West Elevation</i>	<i>2</i>	<i>PA Studio</i>	<i>23 November 2018</i>	<i>25 January 2019</i>
DA37	Section S1 Looking East	<i>B</i>	<i>PA Studio</i>	<i>22 May 2017</i>	<i>22 May 2017</i>
DA38	Section S2 Looking North	<i>B</i>	<i>PA Studio</i>	<i>22 May 2017</i>	<i>22 May 2017</i>
DA40	<i>Schedule of Materials and Finishes</i>	<i>E</i>	<i>PA Studio</i>	<i>19 December 2018</i>	<i>25 January 2019</i>
DA401	<i>Schedule of Materials and Finishes 2</i>	<i>A</i>	<i>PA Studio</i>	<i>2 August 2018</i>	<i>25 January 2019</i>
DA44	Demolition, Erosion + Sediment Control	<i>A</i>	<i>PA Studio</i>	<i>16 December 2016</i>	<i>20 December 2016</i>
DA70	Mesh Screen Detail	<i>A</i>	<i>PA Studio</i>	<i>16 December 2016</i>	<i>20 December 2016</i>
DA71	Winter Garden Detail	<i>A</i>	<i>PA Studio</i>	<i>16 December 2016</i>	<i>20 December 2016</i>
DA72	Typical Winter garden	<i>A</i>	<i>PA Studio</i>	<i>16 December 2016</i>	<i>20 December 2016</i>

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 14.6.2017)

(Condition A1 Modified per DA487/15/5 Consent dated 10.4.2019)

*(Condition A1 Modified per DA487/15/6 Consent dated 19/9/2019)*

**Acoustic Privacy (Residential Apartments)**

C29. Noise levels in sole occupancy units of residential apartments must not exceed the following:

<b>Location</b>	<b>Maximum</b>
Habitable Rooms other than Sleeping Areas	40 LAeq (1hr)
Sleeping Areas	35 LAeq (1hr)

The “Maximum” limits are to apply in any hour of a 24 hour period with the windows of the sole occupancy unit closed.

“habitable room” has the same meaning as in the Building Code of Australia.

A floor separating sole occupancy units shall have a weighted standardised impact sound pressure level  $L'_{nT,w}$  not more than 55dB when measured in-situ in accordance with AS ISO 140.7-2006 “Field measurements of impact sound insulation of floors” and rated to AS ISO 717.2-2004 “Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation”. This clause shall not apply to the floor of a kitchen, bathroom, toilet or laundry in a residential sole occupancy unit.

Mechanical equipment such as lift plant, air conditioning plant servicing the building and pumps shall not be located immediately adjacent bedrooms.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate *including and relevant subsequent modifications*.

(Reason: To comply with best practice standards for residential acoustic amenity)

*(Condition C29 Modified per DA487/15/6 Consent dated 19/9/2019)*

**BASIX Certificate**

C38. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **694020M\_11** for the development are fulfilled. 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.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

*(Condition C38 Modified per DA487/15/6 Consent dated 19/9/2019)*

**Maintenance of Landscaping and Non-Trafficable Green Roof Space.**

I7. All Landscaped and non trafficable green roof spaces are to be maintained in a fit for purpose state at all times. Building Maintenance/management is to ensure any dead or decaying vegetation is to be removed and replaced with suitable replacement plants.

**Access to any non trafficable roof areas is not to be via any residential apartments and no permanent fixtures such as ladders are to be affixed to walls to facilitate access.**

(Reason: To ensure that landscaping including green roofed areas are maintained in a fit for purpose state at all times)

*(Condition I7 Modified per DA487/15/6 Consent dated 19/9/2019)*

2. To insert new conditions, C40 and C41 as follows: -

**Blade screen projection**

C40 The following privacy devices are to be provided

a) A 500 mm wide Fixed lightweight/lattice privacy screen orientated directly south shall be attached to the western side of the window to bedroom 3 of apartment 1801, with a minimum height of 1.7 m above the non-trafficable roof terrace floor level.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any amended 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 an adequate level of privacy is provided to adjoining property located at 225 Miller Street, North Sydney)

*(Condition C40 Inserted per DA487/15/6 Consent dated 19/9/2019)*

**DA487/15/6 Section 7.11 Contributions**

C41. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 94 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

<b>A</b>	<b>B</b>
<b>Administration</b>	\$39.29
<b>Community Centres</b>	\$178.38
<b>Childcare Facilities</b>	\$68.06
<b>Library and Local Studies Acquisitions</b>	\$33.28
<b>Library Premises and Equipment</b>	\$102.93
<b>Multi Purpose Indoor Sports Facility</b>	\$28.11
<b>Olympic Pool</b>	\$91.56
<b>Open Space Acquisitions</b>	\$1,121.91
<b>Open Space Increased Capacity</b>	\$2,223.83
<b>North Sydney Public Domain</b>	\$924.51
<b>St Leonards Public Domain Improvements</b>	\$ -
<b>Public Domain Improvements</b>	\$ -
<b>Traffic Improvements</b>	\$107.91
<b>Total</b>	\$4,919.77

The contribution MUST BE paid prior issue of the relevant amended Construction Certificate. The above amount, will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution. A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

*(Condition C41 Inserted per DA487/15/6 Consent dated 19/9/2019)*

**Reason for approval:**

The section 4.55(1A) application seeks to modify existing consent to DA487/15. The development as proposed to be modified is considered to be substantially the same development for which consent was granted.

The development as proposed to be modified is considered to adequately satisfy the relevant and applicable provisions of State Environmental Planning Policy No 65 – Residential Flat Development NSLEP 2013 and NSDCP 2013.

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The proposed modifications will not result in any new unacceptable adverse environmental or amenity impacts on the surrounding development, the public domain or locality.

Following assessment of the plans and associated information, the development as proposed to be modified is recommended for approval subject to modification to the conditions of development as per the recommendation of this report.

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

The owners of adjoining properties and the Stanton Precinct were notified of the proposed development from 7 June 2019 to 21 June 2019. No submissions have been received during the course of the consideration of this modification.

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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)**