

Original signed by: Geoff Mossemenear Dated: 11/10/2019

North Walker Property Pty Ltd
Locked Bag 1400
MEADOWBANK NSW 2114

D368/18
GM(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 368/18/6 – APPROVAL**

Development Consent Number: 368/18/6

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

Applicant: North Walker Property Pty Ltd

Proposal: To modify consent for construction of a 49 storey hotel and office building.

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. **368/18/6** 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 delete conditions C24, C25 and C26 with the following new conditions namely:

Tree Bond for Public Trees

C24. Prior to the issue of any construction certificate, security in the sum of 2 x \$10,000.00 = \$20,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 24 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

2 x *Platanus x hybrida* (Plane Trees) located on the Walker St footpath.

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Approval for removal of Trees

C25. The following tree(s) are approved for removal in accordance with the development consent:

Tree	Location	Height (m)
1 x <i>Platanus x hybrida</i> (Plane Tree)	Walker Street frontage (tree 1 in front of No.88 Walker Street)	18
1 x <i>Platanus x hybrida</i> (Plane Tree)	Walker Street frontage (tree 2 outside No.86 Walker Street)	17

The trees may be removed to allow construction to take place provided they are replaced with 2 x mature *Platanus x hybrida* (Plane Trees) of least 5m height to be planted in the Council verge in approximately the original location of the removed trees to Council's satisfaction and prior to the issuance of an Occupation Certificate.

(Reason: Protection of existing environmental and community assets)

Required Tree Planting

G4. On completion of works and prior to the issue of an Occupation Certificate trees in accordance with the schedule hereunder must be planted in Council's nature strip/footpath: -

Schedule

Tree	Location	Height (m)
1 x <i>Platanus x hybrida</i> (Plane Tree)	Walker Street frontage outside No.88 Walker Street in approximately same location as removed tree	Minimum of 5m
1 x <i>Platanus x hybrida</i> (Plane Tree)	Walker Street frontage outside No.86 Walker Street in approximately same location as removed tree	Minimum of 5m

The installation of such trees, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure that replacement plantings are provided to enhance community landscaped amenity and cultural assets)

The proposed modification is considered to be consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. The proposed modification is consistent with the reasons for the granted of development consent to the originally approved development.

Having regard to the provisions of section 4.55 & 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.

Reason for approval:

The removal of the street trees is required to allow a construction zone in front of the site where there are no practical alternatives due to the site's corner location and narrow street widths. Retention of trees would result in safety issues for the lifting of materials. In order to have the ability to undertake crane lifts the level of pruning which would be required to the trees, which lean extensively into the street, would be excessive. It is proposed to remove the trees to allow construction and replace them on completion of the development with responsibly sourced and generously sized trees to be chosen at Council's discretion. The application is therefore recommended for **approval**.

How community views were taken into account:

The application was notified to surrounding owners/occupiers and the CBD precinct on 20 September 2019.

The conditions attached to the original consent for Development Application No. 368/18/6 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

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