

Original signed by: Robyn Pearson Dated: 17/12/2019

Woolworths Limited
C/- HDC Planning
Mezzanine Level, 50 Carrington Street
SYDNEY NSW 2000

D370/18
MS1(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 370/18/3 – APPROVAL**

Development Consent Number: 370/18/3

Land to which this applies: 23-25 Broughton Street, Kirribilli
Lot No.: 1, DP: 119391

Applicant: Woolworths Limited
C/- HDC Planning

Proposal: Section 4.55(2) modification – additional New Year's
Eve operating hours for Woolworths Metro shop.

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. **370/18** and registered in Council's records as Application No. **370/18/3** relating to the land described as **23-25 Broughton Street, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 21 December 2018, has been determined in the following manner: -

1. ***Condition 18 Hours of operation is to be added to the consent***

New Year's Eve Hours of Operation – Trial Period

- 18 Notwithstanding *Condition 11 Hours of Operation* above, the approved shop may operate for a trial period of one instance being between **11:00pm Tuesday 31 December 2019 and 2:00am Wednesday 1 January 2020**.

In order for the trial New Year's Eve hours of operation to be confirmed as ongoing yearly, a modification application pursuant to S4.55 of the Environmental Planning and Assessment Act 1979 must be lodged with Council after the trial. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas and the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by condition I1 *Hours of Operation* of this consent.

Note: The trial periods under conditions I2, I4 and I8 may be dealt with under one application and are due to expire 6 September 2020.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

2. Condition I9 is to be added to the consent.

Amendments to Operational Plan of Management.

I9 The Operational Plan of Management adopted under condition I6 is to be amended to address the additional operational requirements of New Year's Eve as approved by Condition I8. The amended plan is to address the safety and security of customers and staff, and ensure that adverse impacts to the surrounding area is minimised.

(Reason: To ensure a suitable plan of management is in place for special events.)

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 and is generally in accordance with the objectives of the NSDCP 2013.

Reason for approval:

The additional hours sought for New Year's Eve are considered reasonable in the circumstances given that the area is transformed by the fireworks display and the area is set to accommodate over 25,000 people.

The operation of the premises is unlikely to result in adverse impacts to the amenity of the neighbourhood considering the unique circumstances of the evening and the expected number of people within the area at that time.

How community views were taken into account:

The development application was notified in accordance with Council's notification policy. The proposed modification did not receive any submissions.

The conditions attached to the original consent for Development Application No. 370/18 by endorsed date of 21 December 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Michael Stephens**. 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
ROBYN PEARSON
TEAM LEADER(ASSESSMENTS)