

Buildcorp
Level 4, 10 Mallett Street
CAMPERDOWN NSW 2050

D173/18
LH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 173/18/4 – APPROVAL**

Development Consent Number: 173/18/4

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

Applicant: Buildcorp

Proposal: To modify a Development Consent DA173/18 to allow various modifications to a commercial 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. **173/18** and registered in Council's records as Application No. **173/18/4** 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 A1 of the consent as follows:-

A. Conditions that Identify Approved Plans

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:

Plan No.	Issue	Title	Drawn by	Received
DA 2-01	C	Proposed basement level P3	Fitzpatrick + Partners	26/2/19
DA 2-02	C	Proposed basement level P2	Fitzpatrick + Partners	26/2/19
DA 2-03	C	Proposed basement level P1	Fitzpatrick + Partners	26/2/19
DA 2-04	C	Proposed ground level	Fitzpatrick + Partners	26/2/19
DA 2-05	C	Proposed Level 1	Fitzpatrick + Partners	26/2/19
DA 2-06	C	Proposed Level 2	Fitzpatrick + Partners	26/2/19
DA 2-07	C	Proposed Level 3	Fitzpatrick + Partners	26/2/19

DA 2-08	C	Proposed Level 4	Fitzpatrick + Partners	26/2/19
DA 2-09	C	Proposed Level 5	Fitzpatrick + Partners	26/2/19
DA 2-10	C	Proposed Level 6	Fitzpatrick + Partners	26/2/19
DA 2-11	C	Proposed Level 7	Fitzpatrick + Partners	26/2/19
DA 2-12	C	Proposed Level 8	Fitzpatrick + Partners	26/2/19
DA 2-13	C	Proposed Level 9	Fitzpatrick + Partners	26/2/19
DA 2-14	C	Proposed Level 10	Fitzpatrick + Partners	26/2/19
DA 2-15	C	Proposed Level 11	Fitzpatrick + Partners	26/2/19
DA 2-16	C	Proposed Level 12	Fitzpatrick + Partners	26/2/19
DA 2-17	C	Proposed Level 13	Fitzpatrick + Partners	26/2/19
DA 2-18	C	Proposed Ex Roof Level	Fitzpatrick + Partners	26/2/19
DA 2-19	C	Proposed New Roof Level	Fitzpatrick + Partners	26/2/19
DA 2-20	C	Proposed top of lift shaft	Fitzpatrick + Partners	26/2/19
DA 2-23	C	Proposed Elevation: South West	Fitzpatrick + Partners	26/2/19
DA 2-24	C	Proposed Elevation: South	Fitzpatrick + Partners	26/2/19
DA 2-25	C	Proposed Elevation: East	Fitzpatrick + Partners	26/2/19
DA 2-26	C	Proposed Elevation: West	Fitzpatrick + Partners	26/2/19
DA 2-27	C	Proposed Elevation: North	Fitzpatrick + Partners	26/2/19
DA 2-28	C	Proposed Section A	Fitzpatrick + Partners	26/2/19
DA 2-29	C	Proposed Section B	Fitzpatrick + Partners	26/2/19
DA 3-01	C	Existing + Demolition Basement P3	Fitzpatrick + Partners	26/2/19
DA 3-02	C	Existing + Demolition Basement P2	Fitzpatrick + Partners	26/2/19
DA 3-03	C	Existing + Demolition Basement P1	Fitzpatrick + Partners	26/2/19
DA 3-04	C	Existing + Demolition Ground Level	Fitzpatrick + Partners	26/2/19
DA 3-05	C	Existing + Demolition Ground Level 1	Fitzpatrick + Partners	26/2/19
DA 3-06	C	Existing + Demolition Level 2	Fitzpatrick + Partners	26/2/19
DA 3-07	C	Existing + Demolition Level 3	Fitzpatrick + Partners	26/2/19
DA 3-08	C	Existing + Demolition Level 4	Fitzpatrick + Partners	26/2/19
DA 3-09	C	Existing + Demolition Level 5	Fitzpatrick + Partners	26/2/19
DA 3-10	C	Existing + Demolition Level 6	Fitzpatrick + Partners	26/2/19
DA 3-11	C	Existing + Demolition Level 7	Fitzpatrick + Partners	26/2/19
DA 3-12	C	Existing + Demolition Level 8	Fitzpatrick + Partners	26/2/19
DA 3-13	C	Existing + Demolition Level 9	Fitzpatrick + Partners	26/2/19
DA 3-14	C	Existing + Demolition Level 10	Fitzpatrick + Partners	26/2/19
DA 3-15	C	Existing + Demolition Level 11	Fitzpatrick + Partners	26/2/19
DA 3-16	C	Existing + Demolition Level 12 Plant	Fitzpatrick + Partners	26/2/19
DA 3-17	C	Existing + Demolition Level 13 LMR	Fitzpatrick + Partners	26/2/19
DA 3-18	C	Existing + Demolition Level 14 LMR	Fitzpatrick + Partners	26/2/19
DA 3-19	C	Existing + Demolition Elevation: South West	Fitzpatrick + Partners	26/2/19
DA 3-20	C	Existing + Demolition Elevation: South	Fitzpatrick + Partners	26/2/19
DA 3-21	C	Existing + Demolition Elevation: East	Fitzpatrick + Partners	26/2/19
DA 3-22	C	Existing + Demolition Elevation: West	Fitzpatrick + Partners	26/2/19
DA 3-23	C	Existing + Demolition Elevation: North	Fitzpatrick + Partners	26/2/19
DA 3-24	C	Existing + Demolition Section AA	Fitzpatrick + Partners	26/2/19
DA 3-25	C	Existing + Demolition Section B	Fitzpatrick + Partners	26/2/19
DA 2-21	C	Proposed Finishes – Sheet 1	Fitzpatrick + Partners	26/2/19
DA 2-22	C	Proposed Finishes – Sheet 2	Fitzpatrick + Partners	26/2/19

Except as modified by the modifications show in colour on:

Plan No	Issue	Title	Dated	Prepared by	Received
DA 2-18	D	Proposed Ex. Roof level	6/9/2019	Fitzpatrick + Partners	17/9/2019
DA 2-19	D	Proposed new roof level	6/9/2019	Fitzpatrick + Partners	17/9/2019

DA 2-20	D	Proposed top of lift shaft	6/9/2019	Fitzpatrick + Partners	17/9/2019
DA 2-23	D	Proposed elevation: South west	6/9/2019	Fitzpatrick + Partners	17/9/2019
DA 2-27	D	Proposed elevation: north	6/9/2019	Fitzpatrick + Partners	17/9/2019
DA 2-28	D	Proposed section A	6/9/2019	Fitzpatrick + Partners	17/9/2019

Except where amended by the following conditions of this consent.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Reason for approval:

The proposed modifications are considered to be of minimal environmental impact and are consistent with the originally approved development application and s.4.55(1A) of 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:

Adjoining properties and the Central Business District Precinct were notified of the proposed development between 27/9/2019 – 11/10/2019. A notice was placed in the Mosman Daily on 25 September 2019. No submissions were received in relation to the development application.

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