

Bay 9 Middlemiss Street Pty Ltd
Bay 9 Middlemiss Street
LAVENDER BAY NSW 2060

D267/18
LH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 267/18/2 – APPROVAL**

Development Consent Number: 267/18/2

Land to which this applies: 5 Middlemiss Street (42-48 Pacific Highway) Lavender Bay
Lot No.: 1, DP: 87564

Applicant: Bay 9 Middlemiss Street Pty Ltd

Proposal: To modify a development consent DA267/18 to remove Conditions C17 and G1(a)

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. **267/18** and registered in Council's records as Application No. **267/18/2** relating to the land described as **5 Middlemiss Street (42-48 Pacific Highway, Lavender Bay)**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 25 July 2019, has been determined in the following manner: -

1. *To delete condition C17 (Required Infrastructure Works –Roads Act 1993)*
2. *To modify Condition G1 as follows:*

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired; to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

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.

How community views were taken into account:

No submissions were received.

The conditions attached to the original consent for Development Application No. 267/18 by endorsed date of 25 July 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**