

Victoria Plaza Holdings Pty Ltd
PO Box 55
CAMMERAY NSW 2062

D189/19
GM (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 189/19/2 – APPROVAL**

Development Consent Number: 189/19/2

Land to which this applies: 1 Denison Street (aka 77 Berry Street), North Sydney
Lot Nos.: 3 & 4, DP: 1078998

Applicant: Victoria Plaza Holdings Pty Ltd

Proposal: To modify consent for fitout and use of the production studios at ground and Level 1 and changes to car parking spaces with basement Level B5.

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. **189/19** and registered in Council's records as Application No. **189/19/2** relating to the land described as **1 Denison Street (aka 77 Berry Street), North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 August 2019, has been determined in the following manner: -

To delete conditions A1 and C2 and insert the following new conditions:

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 and this consent.

Plan No.	Issue	Title	Drawn by	Received
DA01.000	A	Site plan	Bates Smart	27 June 2019
DA03.00N	A	General arrangement Ground floor	Bates Smart	27 June 2019
DA03.01S	A	General arrangement Level 01	Bates Smart	27 June 2019
DA03.02N	A	Level 02 (north)	Bates Smart	27 June 2019
DA03.0B5	A	Basement level B5	Bates Smart	27 June 2019
DA04.00N	A	Ground floor (north)	Bates Smart	27 June 2019

DA04.01S	A	Level 01 (south)	Bates Smart	27 June 2019
DA06.00N	A	Finishes plan Ground floor	Bates Smart	27 June 2019
DA06.01S	A	Finishes plan Level 01	Bates Smart	27 June 2019
DA08.00N	A	Reflected ceiling plan Ground floor	Bates Smart	27 June 2019
DA08.01S	A	Reflected ceiling plan Level 01	Bates Smart	27 June 2019
ID11.000	J	L02 café exhaust acoustic enclosure	Bates Smart	10 February 2020
S26	02	Operable wall & Lighting Rig Structural plan	Richmond + Ross	27 June 2019

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

Noise from Plant and Equipment

C2. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
- (b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Reason for approval:

The proposed modifications are considered to be consistent with the originally approved development application and s.4.55 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 modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

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. The application is therefore recommended for approval.

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

Notification was not required under Council's Policy.

The conditions attached to the original consent for Development Application No. 189/19 by endorsed date of 2 August 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
TEAM LEADER ASSESSMENTS