

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 173/18/5 – APPROVAL**

Development Consent Number: 173/18

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

Applicant: Buildcorp

Proposal: To modify Development Consent DA173/18 to allow for out of hours construction work between 5pm and 10pm (Monday to Friday) for works associated with new lift installation, for a maximum of three (3) months.

The 4.55 application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 6 May 2020.

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. **173/18/5** 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 add new Condition E23:

Extension of construction hours for internal lift installation – trial period

E23. For a trial period of **two weeks**, construction work limited to the internal lift installation, may be carried out between 5pm – 10pm Monday to Friday.

The installation of the lift shall involve use of only the following equipment:

- (1) Use of magnetic drill inside the lift shaft for 10mins every hour at 1 min intervals

- (2) Use of hammer drill inside the shaft for 5 mins every hour at 1 min intervals

Prior to the internal works commencing and during construction works:

- (a) All building work, including all plant and equipment operating contemporaneously, shall **comply with estimated noise levels set out in the *Construction Noise Assessment***, prepared by ADP Consulting Engineering, dated 30 January 2020, and shall not negatively impact any surrounding residential receiver, or sensitive land use.
- (b) The works shall be carried out within the **sealed building façade**.
- (c) A **Parking Management Plan** shall be prepared that shall specify the parking arrangements for all workers. Car parking for all workers shall be wholly contained within the basement levels of the site. The plan should address noise abatement measures that will be in place to minimise disturbance to surrounding residential properties when workers are leaving the site. A copy of the Parking Management Plan shall be provided to Council prior to the commencement of the extended construction hours.
- (d) **No deliveries** are permitted.
- (e) The builder shall display, on-site, their **twenty-four (24) hour contact telephone** number, which is to be clearly visible and legible from any public place adjoining the site.
- (f) A **Complaint Resolution Plan** shall be prepared to ensure that all complaints from surrounding residents are promptly attended to and resolved. A copy of the Complaint Resolution Plan shall be provided to Council prior to the commencement of extended constructed hours.
- (g) A **letterbox** drop shall be undertaken to affected residents providing details of their twenty-four (24) hour telephone number and their Complaint Resolution Plan. The advice is to provide details of when the trial period commences and ends.

The applicant shall provide notification to Council, in writing, 2 days prior to the commencement of the construction works. At the conclusion of the two week trial period, the applicant shall provide to Council details of any complaints received. Should Council's review conclude that the noise impacts negatively on surrounding residential receivers and sensitive land uses, then Council will require by notice to the applicant, owner and developer, that the construction hours must revert to the standard construction hours nominated in Condition E12. The uptake of this consent shall be an indication that the beneficiary of the consent accepts this condition.

Should Council deem it unnecessary to take any action following the conclusion of the trial period, extended construction hours in accordance with the requirements of this condition are permitted for a maximum 3 months from the date of commencement.

If investigation of complaint(s) at any time throughout the 3 months, through appropriate noise testing, establishes that the complaints are justified and that the noise impacts negatively on surrounding residential receivers and sensitive land uses, then Council will require by notice to the applicant, owner and developer, that the construction hours must revert to the construction hours nominated in Condition E12.

(Reason: To ensure the reasonable retention of residential amenity in the surrounding locality)

Reason for approval:

The Panel concurs with the Officer's NSLPP report and considers the trial period is important given the number of residential receptors within the area.

How community views were taken into account:

Adjoining properties and the Central Business District Precinct were notified between 14/2/2020 – 28/2/2020. A notice was placed in the Mosman Daily on 13 February 2020. The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2020/6_May_2020)

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**