

Original signed by: Geoff Mossemear Dated: 20/11/2020

118 Mount Street Pty Ltd as Trustee of Mount Street Holding
Trust, C/- City Plan Strategy & Development
Level 6 120 Sussex Street
SYDNEY NSW 2000

D70/18
GM(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 70/18/6 – APPROVAL**

Development Consent Number: **70/18/6**

Land to which this applies: 118 Mount Street, North Sydney
Lot No.: 1, DP: 1261243

Applicant: 118 Mount Street Pty Ltd as Trustee of Mount Street
Holding.
C/- City Plan Strategy & Development

Proposal: To modify consent for 29 Storey 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. **70/18** and registered in Council's records as Application No. **70/18/6** relating to the land described as **118 Mount Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 September 2018, has been determined in the following manner: -

To delete condition G10 and add the following new condition namely:

Covenant – Public Access

G10. Prior to the issue of the final Occupation Certificate, the applicant shall register a Covenant approved by Council with regard to the land in front of the building in Mount Street, Little Walker Street and at the corner of Arthur Street as shown on drawing numbered DA2-2000, dated February 2018, drawn by fjmt Studio which achieves the objectives of:

- enabling the land in front of the building in Mount Street, Little Walker Street and at the corner of Arthur Street within the property boundary at ground level to be at grade with Council's footpath and used for public access (footway) at all times and
- ensure the rights are not subject to change or variation except with the prior consent of Council

The Covenant must note that the areas are maintained as public access for the life of the building.

(Reason: Public access and amenity)

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 granting 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 as the modification concerns the wording of a condition.

The conditions attached to the original consent for Development Application No. 70/18 by endorsed date of 13 September 2018 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
EXECUTIVE PLANNER