

Highbury Group Pty Ltd
Suite 5/540 Sydney Road
SEAFORTH NSW 2092

D176/18
LD (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.56 MODIFICATION 176/18/3 - APPROVAL

Development Consent Number: 176/18/3

Land to which this applies: 58-60 Aubin Street, Neutral Bay
Lot No.: 2, DP: 209194

Applicant: Highbury Group Pty Ltd

Proposal: Section 4.56 application to modify DA 176/18 in respect of the reconfiguration of lift, increased height of lift overrun, consolidation of Units 201 and 202 into one unit and minor internal and external changes

Pursuant to Section 4.56 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **176/18** and registered in Council's records as Application No. **176/18/3** relating to the land described as 58-60 Aubin Street, Neutral Bay.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 15 October 2019, has been determined in the following manner:-

1. Add Condition A4 to read as follows:

Development in Accordance with Plans (S4.56 Amendments)

A4 The development being carried out in accordance with plans identified in Condition A1 of the consent, except as modified by the modifications shown in colour on:

Plan No.	Issue date/Rev	Description	Prepared by	Dated
DA-099	J	Basement Level	Squillace	19/03/21
DA-100	H	Ground Level	Squillace	19/03/21
DA-101	I	Level 1	Squillace	19/03/21
DA-102	J	Level 2	Squillace	19/03/21
DA-103	J	Level 3	Squillace	19/03/21
DA-104	H	Roof	Squillace	19/03/21
DA-201	G	North and South Elevation	Squillace	19/03/21
DA-202	G	West and East Elevation	Squillace	19/03/21
DA-301	D	Section Sheet 1	Squillace	19/03/21
DA-302	E	Sections Sheet 2	Squillace	19/03/21
DA-303	A	Sections Sheet 3	Squillace	27/05/21

except as amended by the following:

- a) The louvres to the western elevation of the building must be “fixed” consistent with the notations contained on the relevant floor plans indicated in the above table.
- b) The bronze-coloured metal work must be changed to a medium grey or charcoal colour consistent with *Condition A3* of the consent.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, address issues raised in submissions and to clarify any inconsistencies that may arise in the consent)

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.56 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.

Reason for Approval:

The proposed increase to the lift overrun by 550mm above the approved parapet will not materially impact solar access or views for surrounding properties and/or be highly visible from the public domain. The height of the lift overrun remains compliant with the maximum building height control that applies to the site. It is considered unlikely that any appeal made against the refusal of this aspect of the application could be substantively defended in the court.

The consolidation of two, two-bedroom apartments to one, three-bedroom apartment is considered acceptable as it will contribute to the mixed residential population of the area by providing for a variety of apartment sizes.

Having regard to the provisions of section 4.56 and 4.15(1) of the Environmental Planning and Assessment Act 1979 (as amended), 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:

The issues raised in the six submissions received were addressed in the Assessment Report.

The conditions attached to the original consent for Development Application No. 176/18 by endorsed date of 15 October 2019 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Luke Donovan**. 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 4.56 of the Environmental Planning and 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 4.56 of the Environmental Planning and Assessment Act.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
LUKE DONOVAN
SENIOR ASSESSMENT OFFICER