

North Walker Property Pty Ltd
Locked Bag 1400
MEADOWBANK NSW 2114

D368/18
DWH (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 368/18/7 - APPROVAL

Development Consent Number:	368/18
Land to which this applies:	86-88 Walker Street North Sydney Lot No.: 1, DP: 1247547
Applicant:	North Walker Property Pty Ltd Locked Bag 1400 Meadowbank NSW 2114
Proposal:	Modify condition G4 to clarify the vertical extent of area of land to be dedicated to Council

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. **368/18** and registered in Council's records as Application No. **368/18/7** relating to the land described as 86-88 Walker Street North Sydney.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 February 2019, has been determined in the following manner:

1. Condition G4 of the consent shall be amended to read as follows:

Dedication of Footpath

- G4. Prior to completion and issue of any interim Occupation Certificate, the applicant shall dedicate to Council the land in front of the building in Little Spring Street behind 86 Walker Street as shown on drawing numbered DA0051, dated 31 October 2018, drawn by Fitzpatrick and Partners.

The land dedication required by this condition is to include those parts of the Stratum lots identified as Lots 2 and 3 in the subdivision approved under DA 433/18. The land dedication required by this consent must not be encumbered by any encroachment, overhang or other restriction which has not be expressly permitted by this consent.

The Dedication and any associated documentation shall be prepared, executed and registered at the sole cost of the applicant.

(Reason: Public access and amenity)

2. The following additional conditions shall be imposed.

Inconsistency between consents

- I#. In the event of inconsistency between the requirements of this consent and any other consent relating to the land, the requirements of this consent prevail to the extent of the inconsistency.

(Reason: To clarify the scope of inconsistency)

The proposed modification is considered to be consistent with the originally approved development application and s.4.55 of the EP&A Act 1979. The proposed modification is consistent with the reasons for the granted of development consent to the originally approved development.

Having regard to the provisions of section 4.55 and 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.

Reason for Approval:

It is proposed to modify Condition G4 of the consent in order to clarify the vertical extent of the land dedication to Council. The requested amendment is to ensure that the lot arrangements align with previously approved stratum subdivision plan and aligning the height of the lot to be dedicated with the height of the stratum lot that accommodates the new building above.

The proposed modification to conditions is supported on the basis that the amendments proposed would provide for appropriate staging and registration of lots to facilitate the development. Subject to compliance with amended conditions of consent the modifications would reasonably protect the public interest to ensure that the road dedication will proceed in accordance with the original consent.

How community views were taken into account:

In accordance with the provisions of the Clause 3.4.2 of the North Sydney Community Participation Plan 2019, the subject application was not required to be notified. Therefore, no submissions have been received.

The conditions attached to the original consent for Development Application No. 368/18 by endorsed date of 13 February 2019 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **David Hoy**. 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 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 4.55 of the Environmental Planning and Assessment Act.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER - ASSESSMENTS