

Yuhu Group (Australia) Pty Ltd
Level 15 201 Miller Street
NORTH SYDNEY NSW 2060

D256/15
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 256/15/6 – APPROVAL**

Development Consent Number: 256/15/6

Land to which this applies: 221 Miller Street, North Sydney
Lot No.: 100, DP: 1239718

Applicant: Yuhu Group (Australia) Pty Ltd

Proposal: Section 4.55(1a) application to modify consent to DA256/15 specifically in relation changes to the wording of Conditions G5, G11 and I3.

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. **256/15** and registered in Council's records as Application No. **256/15/6** relating to the land described as **221 Miller Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 11 February 2016, has been determined in the following manner: -

1. Modify Conditions G5, G11 and I3 as follows:

Covenant & Restriction (Stormwater Control Systems)

- G5. An Instrument pursuant to Sections 88B and 88E of the Conveyancing Act 1919 and one copy must be submitted to Council in registrable form, providing for:
- a. a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 231 Miller Street requiring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention and pump-out);
 - b. North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;

- c. the wording on the Instrument making reference to the Council file/s which hold:
- (a) the Construction plans; and
 - (b) the “Work-as-Executed” (as built) plans;

Upon Council being satisfied as to the terms of the Instrument, North Sydney Council’s official seal will be affixed to these documents, prior to submission to the Land & Property Information Office for registration.

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier. Typical wording for the Instrument can be sourced from Council’s “Specification for the Management of Stormwater”.

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of the final Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: Compliance and adequate maintenance of drainage system)

Dedication of access handle

- G11. Prior to completion and issue of a final Occupation Certificate, the applicant shall dedicate to Council at no cost, the access handle to McLaren Street approximately 6.12m wide and 74.37m long as shown on Figure 3 of the Clause 4.6 written request prepared by Urbis and received by Council on 24 November 2015.

A subdivision is required to dedicate the land to Council. The applicant shall be responsible for the reconstruction of the pavement in accordance with Council’s Public Domain Style Manual and to the satisfaction of Council’s Director of Engineering and Property Services prior to dedication.

(Reason: Public access and amenity)

Car Share Parking

- I3. Two car spaces shall be allocated for car share parking (eg. Go get scheme or similar) in basement 01. The car share spaces may be on any stratum and must be exclusively used for car share parking.

(Reason: To provide for shortfall in the amount of parking provided on site and ensure that these spaces are exclusively used for car share parking)

2. *Add Condition G15 as follows:*

Access handle

G15. Prior to the issue of any Occupation Certificate the physical works required to the access handle under this development consent must be completed to the satisfaction of the Principle Certifying Authority.

(Reason: To ensure the physical works to the access handle are completed prior to the issue of any occupation certificate therefore ensuring safe access to the building/s)

Council's Development Engineer raises no objection with the changes to Condition G5.

Reason for approval:

The proposed changes to the Condition G11 are supported subject to an additional condition requiring that the works required to the physical access handle be completed to the satisfaction of the Principle Certifying Authority prior to the issue of an Occupation Certificate.

The proposed changes to Condition I3 are not supported. The two car sharing spaces should be used exclusively for car share parking.

How community views were taken into account:

The application did not require notification under Council's policy.

The conditions attached to the original consent for Development Application No. 256/15 by endorsed date of 11 February 2016 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
LUKE DONOVAN
A/EXECUTIVE PLANNER