

Original signed by Lara Huckstepp on 5/11/2021

Jon Cullen - Director  
Cullen Feng Pty Ltd  
303/77 Dunning Avenue  
ROSEBERY NSW 2018

D403/19  
LH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 403/19/2 - APPROVAL**

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**Development Consent Number:** 403/19

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**Land to which this applies:** 1 Elizabeth Plaza, North Sydney  
Lot No.: 1, 2, 4 & 6; DP: DP215737

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**Applicant:** Cullen Feng Pty Ltd

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**Proposal:** Modify DA403/19/2 to modify Conditions G1-G3

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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. **403/19/2** and registered in Council's records as Application No. **403/19** relating to the land described as **1 Elizabeth Plaza, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 4 March 2019, has been determined in the following manner:

Conditions G1, G2 and G3 are amended as follows:

**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of a final Occupation Certificate any and all works relating to the development:
- a. In the road reserve must be fully completed; and
  - b. To repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

To the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

**Utility Services**

G2. All utility services shall be adjusted, to the correct levels and/or/location/s required by this consent, prior to issue of a final occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

**Certification of Tree Condition**

G3. Prior to the issue of a final Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below:

2 x 3 high trees in planters at splay corner

The report must detail the condition and health of the nominated tree(s) upon completion of the works and shall certify that the tree(s) have not been significantly damaged during the works on the site and has/have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

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**Reasons for Approval:**

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and general found to be satisfactory.

The application proposes modifications to conditions imposed to a development consent for a commercial building that is a permissible form of development in the B3 Commercial Core zoning.

The proposed modification to Conditions G1-G3 will modify the timing of satisfaction of conditions, however no change is proposed to the intent of the conditions. Council holds a bond to ensure the satisfactory completion of works on Council's property.

Having regard to the merits of the proposal, the application is recommended for approval.

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**How community views were taken into account:**

The subject application was not required to be notified in accordance with the provisions of the North Sydney Community Engagement Protocol.

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The conditions attached to the original consent for Development Application No. 403/19 by endorsed date of 4 March 2019 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Lara Huckstepp**. 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**

**5 November 2021**

DATE

Signature on behalf of consent authority  
LARA HUCKSTEPP  
**EXECUTIVE ASSESSMENT OFFICER**