

Original signed by: David Hoy Dated:9/9/2016

Mr Leslie Berger  
Level 7 275 Alfred Street North  
NORTH SYDNEY NSW 2060

D163/16  
DWH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979  
(AS AMENDED)**

**Notice to Applicant of Determination of Request  
to Modify a Development Consent**

Pursuant to Section 96 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **163/16** and registered in Council's records as Application No. **163/16/2** relating to the land described as **275 Alfred Street, North Sydney**.

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

1. Consistent with the request to modify Condition A2 with respect to the description of the approved sign, the stated description of the approval issued under DA 163/16 is modified to reflect the description of the sign originally approved by the Land & Environment Court. That is the description of the approved development be modified to read as follows:

**“continued use of roof sign”**

2. That Condition A2 of the consent be amended to read as follows:

***Separate DA***

A2. *A separate development application is required to be lodged for any changes to the design, size, height, colour or external form of the existing signage including any change relating to:*

- (a) *Enlargement/alteration of Display area;*
- (b) *Signage content;*
- (c) *Animation, flashing, changing, scrolling and/or moving imagery;*

*(Reason: To clarify the scope of development approval is for the use of the existing roof sign)*

3. Condition I3 is amended to read as follows:

***Inconsistency between development consents***

*I3. The existing signage consent must continue to operate in accordance with the conditions of the consent imposed by the Land and Environment Court in Benmill Pty JB No. 3 Pty Ltd v North Sydney Council (2007) NSWLEC 680 which relates to the site. In the event of any inconsistency between this consent and any preceding development consent, the requirements of this consent shall prevail to the extent of the inconsistency.*

*(Reason: To ensure the performance of the development in accordance with all relevant conditions of development consent and to provide for inconsistency between consents)*

The conditions attached to the original consent for Development Application No. 163/16 by endorsed date of 11 July 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 97 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (b) Pursuant to Section 96AB, an applicant is able to request Council to review its determination. An application for a review under Section 96AB 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 81A(2) (a) of the Act.

- (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b1)(i) 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 81A(2)(c) 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 96 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 96 of the Environmental Planning & Assessment Act.

---

DATE

---

Signature on behalf of consent authority  
DAVID HOY  
TEAM LEADER (ASSESSMENTS)