

Attachment E

Current Consent Notice D/2011/2123/A

City of Sydney

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17 July, 2013

APN OUTDOOR
Level 4 33 Saunders Street
PYRMONT NSW 2009

**SECTION 96 MODIFICATION APPROVAL FOR 169-173 DARLINGHURST ROAD,
DARLINGHURST NSW 2010
APPLICATION NO: D/2011/2123/A**

Dear Sir/Madam

I refer to your application dated 5 July 2013 to modify the consent for Development Application No. D/2011/2123 in the following manner:

- Amend Condition 1 relating to the approved drawings so as to recess the approved replacement sign into the wall of the subject building and be wholly within the boundary of the subject site; and
- Delete Condition 7 which required the approval of a management agreement with the City's Property Division for use of the airspace above Craigend Street prior to the issue of a Construction Certificate.

You are advised that your application for modification has been **partially approved** under Section 96AA(1) of the Environmental Planning and Assessment Act 1979. A copy of the Notice of Determination of the original development application is attached with the amendments resulting from the modification shown in ***bold italics***.

Please note that Condition 7 has not been deleted in its entirety. The wording of the condition has been amended so that the requirement remains only in the event that the sign cannot be recessed. Please also note some new conditions have been added at (10A) and Condition (22) has also been modified.

This approval is limited to only those amendments requested in your Section 96 application dated 5 July 2013. Approval is not granted for any other items which may have been amended on the submitted drawings and for which approval has not been specifically sought.

This approved modification will require an amended Construction Certificate which must be obtained from your Certifying Authority (Council or private accredited certifier). Building work must not commence until an amended Construction Certificate has been approved.

city of villages

The Council officer dealing with this application is **Kris Walsh** ph. 9246 7892, email krwalsh@cityofsydney.nsw.gov.au.

Please contact this officer if further information is required.

Yours faithfully

GRAHAM JAHN

Director - City Planning, Development & Transport

Notes:

Modification of development consent in accordance with Section 96 of the Act shall not be construed as the granting of development consent, but reference to a development consent, is a reference to the development consent so modified.

Section 96(6) of the Act confers on an applicant who is dissatisfied with this determination a right of appeal to the Land and Environment Court and the Court may determine the appeal.

For the reasons for imposing conditions, refer to the Notice of Determination for the original development consent.

Modification of a development consent does not remove the need to obtain any other statutory consent necessary under the Environmental Planning and Assessment Act 1979, or any other Act.

The conditions of consent of the development application have been modified with the consent of the applicant.

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**NOTICE OF DETERMINATION - APPROVAL** issued under Section 80(1)(a) of the Environmental Planning and Assessment Act 1979

Development Application No.	D/2011/2123/A
Applicant	APN OUTDOOR Level 4 33 Saunders St PYRMONT NSW 2009
Land to be developed	169-173 Darlinghurst Road, DARLINGHURST NSW 2010 Lot B DP 387870
Approved development	Replacement of existing roof top sign on the northern elevation with electronic LED static digital display sign. Add and widen windows to northern (William Street) elevation.
Cost of development	\$820,000
Determination	This Section 96 modification application was determined under delegation of Council and was granted consent subject to the attached conditions.
Consent is to operate from	9 January 2013
Consent will lapse on	9 January 2018
<i>Date of Section 96(1A) Modification</i>	<i>17 July 2013</i>

Reasons for conditions

Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest.

Right of Appeal

If you are dissatisfied with this decision, Section 96(6) of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environmental Court within 6 months after the date of this Notice of Determination.

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Alternatively, you may request a review under Section 96AB of the Act within 28 days of the date of this notice (NB section 96AB is not applicable to integrated or designated development).

GRAHAM JAHN

Director - City Planning, Development & Transport

CONDITIONS OF CONSENT**SCHEDULE 1A****APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION**

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. RD/2011/2123/A dated 16 August 2012 and the following drawings:

Drawing Number	Architect	Date
6172-DA01E S96-01A	Kann Finch	10 December 2012 6 June 2013

Notwithstanding the above approved plan, fully resolved drawings and specifications showing the recessed position of the sign must be lodged with and approved by the Director of City Planning, Development and Transport prior to a Construction Certificate being issued.

(Modified 17 July 2013)

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) SURRENDER OF EXISTING CONSENT

Development consent U00-00832 (the consent for the existing sign) must be surrendered prior to the issue of any Occupation Certificate for the approved sign.

(3) SIGNAGE -TIME LIMITED CONSENT

The sign and any associated structure must be removed and the site reinstated ***and made good***, within a period of 10 years from the date of consent or on the termination of the subject lease of the property, whichever occurs first. ***In this regard, any bricks to be removed must be cleared and stored so as to allow their possible future reinstatement.*** If the sign is to be retained after this period, a new development application must be lodged with Council before the expiration of the consent.

(Modified 17 July 2013)

(4) SIGN ILLUMINATION

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood and as such must be designed, installed and used in accordance with AS4282-1997 control of obtrusive effects of outdoor lighting.
- (b) The sign(s) must not flash.

(5) CONTROL OF LIGHT INTO THE ENVIRONMENT AND MONITORING

- (a) Lighting installed in the open and/or public spaces must comply with AS1158 series-lighting for roads and public spaces. The design and placement must be so that lighting does not create a nuisance or negatively affect the amenity of the surrounding neighbourhood, for that purpose lighting must also comply with AS4282-1997 control of obtrusive effects of outdoor lighting.
- (b) Before it is put on display on the approved sign, each image must be certified, at no cost to Council, by a Chartered Professional Engineer with expertise in lighting that the image, when displayed on the approved sign, will comply with AS4282-1997 and condition 9 of this consent. Every such certificate must be kept in a register for 12 months and be produced for Council's inspection on request.

(6) ILLUMINATED BILLBOARD SIGNS

- (a) The proposed illuminated billboard sign must be powered by a renewable energy source, either through:
 - (i) the provision of infrastructure to generate renewable energy (subject to development consent); or
 - (ii) the purchase of a renewable energy product offered by an electricity supplier equivalent to the estimated amount of electricity used for the period of consent of ten years.
- (b) Prior to a Construction Certificate being issued, proof of the purchase of a renewable energy production the form of a contract or payment receipt is to be supplied to the Certifying Authority and included in the Construction Certificate documentation referred to the Council. The applicant is to retain proof of the continuation of the renewable energy contract for the duration of the period during which the sign is in place.

(7) ROADS ACT APPROVAL AND MANAGEMENT AGREEMENT

In the event that the sign cannot be recessed so as to be wholly within the boundaries of the subject site, and prior to the issue of a Construction Certificate, the applicant must apply for and be issued a Consent under Section 138 of the Roads Act 1993 for the construction on and occupation of a public road by the City's Property Division. This approval will

include a management agreement with the City's Property Division for use of the airspace above Craigend Street.

(Modified 17 July 2013)

(8) DEDICATION OF ADVERTISING TIME FOR COMMUNITY PURPOSES

One-sixth of advertising time must be dedicated to Council for the purpose of community messaging. This advertising time must be every sixth advertising sequence, in order to ensure that community messaging occurs consistently through the day.

**(9) ROADS AND MARITIME SERVICES CONCURRENCE
CONDITIONS (WITH MINOR AMENDMENTS MADE BY COUNCIL)**

- (a) Each advertisement must be displayed statically, for a minimum of 45 seconds where the posted speed limit is less than 80 km/h;
- (b) The display must be completely static from its first appearance to the commencement of a change to another display;
- (c) The transition time between advertisements must not be greater than 0.1 seconds;
- (d) No advertisement displayed must be dominated by red, yellow, white or green, or any shape or pattern, so as to result in it being readily mistaken for a rail or traffic or road sign or signal;
- (e) Light levels are to be consistent with Section 3.2.5 "Illumination and Reflective" of the Transport Corridor Outdoor Advertising and Signage Guidelines.

(10) SAFETY AUDIT AND RISK ANALYSIS ON THE FIRST ANNIVERSARY

The applicant shall have a Safety Audit and Risk Analysis carried out by an independent RMS accredited road safety auditor acceptable to the applicant and to Sydney City Council after the sign has been in operation for a period of 12 months. Any measures recommended by the auditor to address any safety concerns must be implemented by the applicant.

(10A) GENERAL HERITAGE

- (a) Removal of the existing masonry to the parapet and chimney must be carried out in a manner that can be reversed if the sign is ever removed.*
- (b) The existing chimney must be retained and stabilised.*

(Inserted 17 July 2013)

SCHEDULE1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

Note: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

(11) WASTE AND RECYCLING MANAGEMENT- MINOR

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal.

(12) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE

Demolition or removal of the existing sign must not occur until a Construction Certificate has been issued.

(13) BARRICADE PERMIT

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the Roads Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

(14) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

- (a) A separate application under Section 138 of the Roads Act 1993 is to be made to Council to erect a hoarding and/or scaffolding in a public place and such application is to include:-
 - (i) Architectural, construction and structural details of the design in accordance with the *Policy for the Design and Construction of Hoarding* (September 1997) and the *Guidelines for Temporary Protective Structures* (April 2001).
 - (ii) Structural certification prepared and signed by an appropriately qualified practising structural engineer.

Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of demolition or construction works on site.

Assessment of the impacts of construction and final design upon the City of Sydney's street furniture such as bus shelters, phone booths, bollards and litter bins and JCDecaux street furniture including kiosks, bus shelters, phones, poster bollards, bench seats

and litter bins. The applicant is responsible for the cost of removal, storage and reinstallation of any of the above as a result of the erection of the hoarding. In addition, the applicant is responsible for meeting any revenue loss experienced by Council as a result of the removal of street furniture. Costing details will be provided by Council. The applicant must also seek permission from the telecommunications carrier (e.g. Telstra) for the removal of any public telephone.

- (b) Should the hoarding obstruct the operation of Council's CCTV Cameras, the applicant must relocate or replace the CCTV camera within the hoarding or to an alternative position as determined by Council's Contracts and Asset Management Unit for the duration of the construction of the development. The cost of relocating or replacing the CCTV camera is to be borne by the applicant. Further information and a map of the CCTV cameras is available by contacting Council's CCTV Unit on 9265 9232.
- (c) The hoarding must comply with the Council's policies for hoardings and temporary structures on the public way. Graffiti must be removed from the hoarding within one working day.

(15) STRUCTURAL CERTIFICATION FOR DESIGN- BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practicing structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).

(16) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING ALTERATIONS AND ADDITIONS

A qualified practicing certified structural engineer must provide structural certification to Council (where Council is the Certifying Authority) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the Building Code of Australia prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

Note: Where a condition of consent has been imposed under the provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the building (part or whole) may be required to comply fully with Part 81 of the Building Code of Australia including compliance with the earthquake loads standard, AS1170.4.

(17) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

The proposed work must comply with the Building Code of Australia (BCA).

SCHEDULE1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(18) HOURS OF WORK AND NOISE- OUTSIDE CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Building Sites Noise Code* and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

(19) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(20) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(21) USE OF MOBILE CRANES

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building or structure.
- (b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (d) Special operations and the use of mobile cranes must comply with the approved hours of construction. Mobile cranes must not be delivered to the site prior to 7.30am without the prior approval of Council.

(22) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment, ***and certifying whether or not the sign is contained wholly within the boundaries of the subject site.***

(Modified 17 July 2013)