

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

MODIFICATION (MOD 188-12-2005) OF DEVELOPMENT CONSENT (DA 468-11-2003)

DEMOLITION OF 3 HOUSES AND CONSTRUCTION OF A 5 STOREY TOURSIT ACCOMMODATION FACILITY COMPRISING 58 UNITS AND BASEMENT PARKING

PURSUANT TO SECTION 80 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(FILE NO. 9041198-1)

I, Yolande Stone, Acting Deputy Director General, Office of Sustainable Development Assessments and Approvals as delegate for the Minister for Planning as described in the instrument of delegation dated 12 September 2005, pursuant to Section 96 (1A) of the *Environmental Planning & Assessment Act, 1979*, modify the development consent referred to in the attached Schedule 1 in the manner set out in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To encourage good urban design and a high standard of architecture;
- (2) To maintain the amenity of the local area; and
- (3) To preserve the unique scenic qualities and character of the NSW coastline.

Yolande Stone
Acting Deputy Director General
Office of Sustainable Development Assessments and Approvals

Sydney,

2006

SCHEDULE 1

PART A - TABLE

Application Number:	MOD 188-12-2005 modifying DA 468-11-2003
Application made by:	James Fitzpatrick of Fitzpatrick & Partners Level 5, 156 Clarence Street, Sydney NSW 2000
On land comprising:	19-23 Church Street and 20 Tomaree Street, Nelson Bay
Local Government Area	Port Stephens
For the carrying out of:	Demolition of 3 houses and construction of a 5 storey tourist accommodation facility comprising 58 apartments and two levels of basement car parking.
Section 96 (1A) Application	MOD 188-12-2005 to modify DA468-11-2003 the following manner: ▪ amend condition 29 in relation to the submission of a construction management plan; ▪ amend condition 30 in relation to the submission of a traffic and pedestrian management plan; and ▪ amend condition 31 in relation to the submission of a noise and vibration management plan
Development consent granted by:	Minister for Planning
On:	4 August 2004
Type of development:	State Significant Development Integrated Development
S.119 public inquiry held:	No
As modified:	Consent not previously modified

PART B - NOTES RELATING TO THE MODIFICATION OF DEVELOPMENT CONSENT NO. MOD 188-12-2005

Responsibility for other approvals / agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only available within **3** months after the date on which the applicant received this notice.

Appeals - Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C - DEFINITIONS

The definitions within this modification are consistent with the definitions in Schedule 1 of the consent to development application 468-11-2003.

SCHEDULE 2

MODIFICATION (MOD 188-12-2005) OF DEVELOPMENT CONSENT TO DEVELOPMENT APPLICATION NO. DA 468-11-2003

The development consent is modified as follows:

PART A – ADMINISTRATIVE CONDITIONS

No amendments

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

No amendments

PART C – PRIOR TO COMMENCEMENT OF WORKS

Delete Condition 29 and Insert Condition 29A:

29A Construction Management Plan

Prior to the commencement of any works on site, a Construction Management Plan shall be submitted to and approved by the Director Development & Building, Port Stephens Council or Principal Certifying Authority. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work;
- (2) contact details of site manager;
- (3) traffic management (see also C5 below);
- (4) noise and vibration management (see also C6 below);
- (5) waste management (see also C7 below);
- (6) erosion and sediment control (see also B11).

Delete Condition 30 and Insert Condition 30A:

30A Traffic & Pedestrian Management Plan

Prior to the commencement of any works on the site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Director Development & Building, Port Stephens Council or Principal Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site;
- (2) loading and unloading, including construction zones;
- (3) predicted traffic volumes, types and routes; and
- (4) pedestrian and traffic management methods.

Delete Condition 31 and Insert Condition 31A:

31A Noise and Vibration Management Plan

Prior to the commencement of any works on the site, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Director Development & Building, Port Stephens Council or Principal Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) identification of the specific activities that will be carried out and associated noise sources;
- (2) identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment;
- (3) the construction noise objective specified in the conditions of this consent;
- (4) the construction vibration criteria specified in the conditions of this consent;
- (5) determination of appropriate noise and vibration objectives for each identified sensitive receiver;
- (6) noise and vibration monitoring, reporting and response procedures;
- (7) assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions;
- (8) description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction;
- (9) justification of any proposed activities outside the construction hours specified in the conditions of this consent;
- (10) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency;
- (11) procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration, and
- (12) contingency plans to be implemented in the event of non compliance and/or noise complaints.

PART D – DURING CONSTRUCTION

No amendments

PART E – PRIOR TO ISSUE OF SUBDIVISION OR SUBDIVISION CERTIFICATE

No amendments

PART F – PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

No amendments

PART G – POST OCCUPATION

No amendments

PART H – GENERAL TERMS

No amendments