

Application to modify a development consent



Date lodged: 9/10/2012

DA modification no. _____
(Office use only)

1. Before you lodge

This form is to be used for applications to modify Part 4 development consents under section 96 or 96AA of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This form is also to be used for Part 4 development consents that are to be modified under section 75W of the Act.

Disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

Anyone wishing to lodge an application is recommended to call the Department of Planning to discuss their proposal and modification application requirements prior to lodging their application. You can lodge your completed form, together with attachments and fees at the relevant Department of Planning office listed below. Please lodge Part 4 modification applications with the Department of Planning head office or, for modification applications that are within the Kosciuszko ski resorts area, the Department's Alpine Resorts team.

NSW Department of Planning
Head Office
Ground Floor, 23-33 Bridge Street, Sydney NSW 2000
GPO Box 39 Sydney NSW 2001
Phone: 1300 305 695 Fax: (02) 9228 6555
Email: information@planning.nsw.gov.au

NSW Department of Planning
Alpine Resorts Team
Shop 5A, Snowy River Avenue
PO Box 36, Jindabyne NSW 2627
Phone: (02) 6456 1733 Fax: (02) 6456 1736
Email: alpineresorts@planning.nsw.gov.au

To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to the Department. When your application has been assessed, you will receive a notice of determination.

2. Applicant and contact details

Company/organisation/agency

ABN

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

SHAN YAN

Family name

CHEN

STREET ADDRESS

Unit/street no.

78

Street name

STANLEY ST.

Suburb or town

BURWOOD

State

NSW

Postcode

2134

POSTAL ADDRESS (or mark 'as above')

AS ABOVE

Suburb or town

State

Postcode

Daytime telephone

9747 0393

Fax

Mobile

0433 922 666

Email

shan.chen.au@ya.hoo.com.au

3. Property description

Unit/street no. (or lot no. for Kosciuszko ski resorts)

1

Street or property name

DIXON STREET.

Suburb, town or locality

HAYMARKET

Postcode

2000

Local government area

Sydney

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash (/) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma e.g. 123/579, 162/2.

1097512 / SP 77100

Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact the NSW Department of Lands for updated details. If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers do not apply.

4. Details of the original development consent

Briefly describe your approved development in the space below. If the development has been modified previously you must list all previous modifications and the relevant determination date(s).

INSTALLATION OF BOTH FIX AND RETRACTABLE
AWNINGS IN OUTDOOR SEATING AREA.

What was the original
development application no.?

DA 063-04-2009

What was the date
consent was granted?

20/05/2009

What was the original application
fee?

5. Type of modification

An application under section 96 of the EP&A Act is an application to modify a development consent. Modifications to a development consent can also be made under section 75W of the EP&A Act, or section 96AA for court granted consents.

There are five types of modification applications. Please tick the type of modification application that is being sought:

- ☐ Section 96(1) involving minor error, misdescription or miscalculation.
- ☒ Section 96(1A) involving minimal environmental impact, where the development as originally approved remains substantially the same.
- ☐ Section 96(2) other modification, where the development as originally approved remains substantially the same.
- ☐ Section 96AA modification of consent granted by the Land and Environment Court, where the development as originally approved remains substantially the same.
- ☐ Section 75W modification, involving use of Part 3A processes to modify the Part 4 consent.

Note: If the proposed modification will lead to the consented development being not 'substantially the same' (except in the case of a proposed modification under section 75W) then you will need to submit a new development application.

6. Extent of modification

Will the modified development be substantially the same as the development that was originally approved?

No ☐ > Please submit a new development application.

Yes ☒ > Please provide evidence that the development will remain substantially the same. (If you need to attach additional pages, please list below the material attached).

SAME SHAPE, SAME COVERAGE, SAME COLOUR.

Note: Question 6 does not apply to proposed modifications under section 75W.

7. Description of modification

- In the case of a section 96(1) application, indicate the nature of the minor error, misdescription or miscalculation in the space below.
- In the case of a section 96(1A), section 96(2) or section 96AA application describe the impact of the modification in the space below. A statement of environmental effects will need to accompany the application, which includes an assessment of the development as proposed to be modified in accordance with section 79C(1) of the EP&A Act. Provisions of the *Heritage Act 1977* may also apply for works to a heritage item or works adjoining a heritage item.
- In the case of a section 75W application under clause 8J(8) of the Environmental Planning and Assessment Regulation 2000, a development consent in force immediately before the commencement of Part 3A of the Act may be modified under section 75W as if the consent were an approval under that Part. However, approval from the Minister is required to lodge a section 75W application. **Applicants should contact the Department first if they are considering applying for a modification under section 75W.**

Regardless of the type of modification, please state below the specific conditions of consent to be modified, deleted or additional conditions request, and details of any other changes being sought.

CHANGE RETRACTABLE AWNING TO FIX AWNING
SAME SHAPE, SAME COVERAGE, SAME COLOUR
MINOR OR NIL ENVIRONMENTAL IMPACT.

Note: If your proposal is within Kosciuszko ski resorts area, please attach a copy of the Interim Lease Variation Approval received from the Department of Environment and Climate Change to your application.

8. General terms of approval from State agencies

If the original development application was classified as integrated development and required approval from one or more State agencies, list them in the space below and their respective general terms of approval. Depending on the type of modification, it may be necessary to refer the modification application to the approval body.

N/A

9. Number of jobs to be created

Please indicate the number of jobs the proposed development will create. This should be expressed as a proportion of full time jobs over a full year, (e.g. a person employed full time for 6 months would equal 0.5 of a full time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full time for 2 weeks, which equals approximately 0.08 of an FTE job).

Construction jobs (full time equivalent)

Operational jobs (full time equivalent)

10. Application fee

Part 15 of the Environmental Planning and Assessment Regulation 2000 sets out how to calculate the fees for an application for modification of a development consent. If your development needs to be advertised to the public you may also need to include an advertising fee.

Note: Advertising fees attract GST, all other fees do not.

Please contact the Department in order to calculate the fee for your modification application.

Estimated cost of the development

Original application fee

Total fees lodged

11. Political donation disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. Disclosure statements are to be submitted with your application.

Have you attached a disclosure statement to this application?

Yes ☐

No ☐

N/A

Note: For more details about political donation disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

12. Owner's consent

The owner(s) of the land to be developed must sign the application. If you are not the owner of the land, you must have all the owners sign the application. If the land is Crown land, an authorised officer of the NSW Department of Lands must sign the application. An original signature must be provided.

As the owner(s) of the above property, I/we consent to this application:

Signature

Signature

Name

Name

Date

Date

WILL McDONALD, Regional Head
ACCORD PACIFIC VINEYARDS PTY LTD ARN 40 076 830 076

2/10/2012

Note: For applications within the Kosciuszko ski resorts area, the approval of the lessee rather than the owner is required.

13. Applicant's signature

The applicant, or the applicant's agent, must sign the application. Only an original signature will be accepted (photocopies or faxed copies will not be accepted).

Signature

In what capacity are you signing if you are not the applicant

Chen Shan Yan

B. ARCH.

Date

Name, if you are not the applicant

9-10-2012

14. Privacy policy

The information you provide in this application will enable the Department, and any relevant state agency, to assess your application under the *Environmental Planning and Assessment Act 1979* and other applicable state legislation. If the information is not provided, your application may not be accepted.

If your application is for designated development or advertised development, it will be made available for public inspection and copying during a submission period. Written notification of the application will also be provided to the neighbourhood. You have the right to access and have corrected any information provided in your application. Please ensure that the information is accurate and advise the Department of any changes.

Power of attorney

Dated 21st July 2011

Accord Pacific Vineyards Pty Ltd ACN 076 830 076 (Principal)

The persons described in Item 1 of the Schedule (Attorney)

T 61 2 8281 4555
F 61 2 8281 4567
E law@cbp.com.au
I www.cbp.com.au

Level 42, 2 Park Street
Sydney NSW 2000
Australia

DX 280 Sydney
Advoc Asia member

Colin Biggers
& Paisley

ABN 38 941 300 979

LAWYERS

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Power of attorney

1. Definitions and interpretation

- (a) In this document, **Documents** means the documents described in Item 2 of the Schedule.
- (b) In this document, unless the context requires another meaning, a reference:
 - (i) to the singular includes the plural and vice versa
 - (ii) to a gender includes all genders, and
 - (iii) to a group of persons includes, without limitation, a reference to each of the persons in that group.
- (c) Headings are for convenience only and do not affect the interpretation of this document.

2. Appointment and powers of attorney

2.1 Appointment

- (a) The Principal appoints the Attorney as its attorney to:
 - (i) sign the Documents under hand or under seal and deliver the Documents (conditionally or unconditionally), at the option of the Attorney, in any place or places set out in Item 3 of the Schedule
 - (ii) complete any blanks in any Document
 - (iii) make any amendments or additions to any Documents which, in the opinion of the Attorney, ought to be made
 - (iv) sign any other documents, and do any other thing which, in the opinion of the Attorney, ought to be signed or done in connection with any Document, and
 - (v) sign under hand or under seal and deliver (conditionally or unconditionally), at the option of the Attorney, any other documents supplemental to or varying any Document, which in the opinion of the Attorney, ought to be signed.

2.2 Method of signing

The Attorney may sign any document he is authorised to sign under this document in the name of the Principal or, at his option, in his own name on behalf of the Principal.

3. Ratification and indemnity

3.1 Ratification

The Principal agrees to ratify and confirm whatever the Attorney lawfully does, or causes to be done, under this document.

3.2 Indemnity

The Principal indemnifies the Attorney against:

- (a) all actions, suits, claims, demands, damages, obligations, liabilities and losses arising directly or indirectly from, and
- (b) any costs, charges and expenses incurred by or threatened against any of them as a consequence of, or in connection with,

the lawful exercise of any of the powers and authorities conferred by this power of attorney in accordance with its terms.

4. Protection of the Attorney

4.1 No personal liability

The fact that the Attorney lawfully does something under this document is not an assumption of personal liability by the Attorney, or by any person (other than the Principal) of which the Attorney is a partner, member, officer, employee or agent.

4.2 Conflicts

The authority granted to the Attorney by this document remains valid, notwithstanding the fact that action taken by the Attorney as contemplated by this document constitutes an actual or potential conflict of interest or duty or benefits the Attorney.

5. Stamping and registration

5.1 Stamping by the Principal

The Principal agrees to stamp and register this document promptly after signing and delivery of this document as required by any applicable law.

6. Revocation

6.1 Revocation

- (a) The powers and authorities conferred on the Attorney by this document remain in full force and effect until revocation by the Principal in writing.
- (b) The Principal must promptly give written notice to an Attorney of the revocation of this document under clause 6.1(a).

6.2 Validity of acts

The revocation of this document under clause 6.1(a) does not affect the validity of anything done by the Attorney in the lawful exercise of any of the powers and authorities conferred by this document in accordance with its terms until the date on which the Principal gives written notice of the revocation to that Attorney.

7. Governing law and jurisdiction

7.1 Governing law

This document is governed by the laws of New South Wales.

7.2 Jurisdiction

The Principal irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

Schedule**Item 1 The Attorney**

George Roy William McDonald

Item 2 The Documents

- (a) Any documents relating to The Mandarin Club Premises located at 1 Dixon Street, Sydney (**Premises**).
- (b) Put and call option arrangement with Fully Good Pty Ltd with respect to the Premises.
- (c) The contract for the sale of the Premises to Fully Good Pty Ltd or any nominee of Fully Good Pty Ltd pursuant to any option.
- (d) Any applications to the Council of City of Sydney or any other relevant authority (including any of the licensing authority) with respect to the Premises.
- (e) Any relevant notices to the Owners Corporation SP77100 with respect to the Premises or any matters relating to the premises.

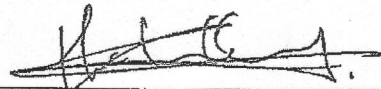
Item 3 Place or places in which the Documents are to be signed

Sydney, NSW

Item 4 Principal

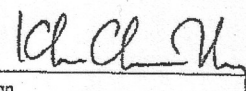
Accord Pacific Vineyards Pty Ltd ACN 076 830 076

 Signed by ^{Accred} Australia
Pacific Vineyards
Pty Ltd


sign

Director
office (director or secretary)

KHO Choon Keng
full name

^{cbp}

sign

Director
office (director or secretary)

KHO Chuan Thye Patrick
full name

