

**STATEMENT OF MODIFICATION TO ACCOMPANY A
MODIFICATION APPLICATION UNDER SECTION 4.55(1A)
OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT
ACT 1979**

**15 UPPER GILBERT STREET
MANLY NSW 2095**

FOR
SAN BERNADINO PTY LTD

PREPARED BY
XPM PROJECT MANAGEMENT PTY LTD
10th APRIL 2025

1. INTRODUCTION

This report has been prepared to accompany a modification application under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 for modification of the Development Consent No. DA2023/1366 for 15 Upper Gilbert Street Manly, approved under delegated authority on 13/12/2023. The approved development application is for the strata subdivision to an existing residential flat building. The building is currently occupied as a residential flat building, with unit allocations under company title ownership. The subdivision is to change this to strata title ownership, whilst also carrying out the upgrade recommendations of BCA Report by Accurate Fire & Building Consulting originally dated 15th September 2021.

2. DETAILS OF THE PROPOSED MODIFICATIONS

The proposed modifications are detailed in the updated BCA Report attached and are summarised below.

2.1 Updating the BCA Version

The approved BCA Report referenced in Development Consent No. DA2023/1366 specifies compliance with BCA 2019, which was the current version at the time of assessment. Under the Environmental Planning and Assessment Act, Construction Certificate documentation must comply with the BCA version in force at the time the Construction Certificate is issued.

As of May 1st, 2025, BCA 2022 Amendment 1 will come into force. Given the timing of our Construction Certificate preparation and the imminent implementation of this updated version, we are requesting Council's approval to reference compliance with BCA 2022 Amendment 1 in advance of its formal effective date.

The differences between BCA 2019 and BCA 2022 Amendment 1 in relation to the specific fire safety measures required for this development are minimal. This modification seeks Council's approval to amend Conditions 1 and 8 of the Development Consent to explicitly reference compliance with BCA 2022 Amendment 1, allowing the Principal Certifying Authority to proceed with Construction Certificate documentation in accordance with the version that will be in force at the time of construction.

2.2 Alternative to Discontinued Intumescent Paint

The approved BCA Report nominated an intumescent paint product (CAP 508) to treat the unit ceilings to achieve a Fire Resistance Level (FRL) of 30/30/30 (reference Recommendation 3.1 of BCA Report). This specific product has been discontinued in Australia with no suitable direct replacement currently available.

After consultation with the original BCA Consultant, Fire Engineer, Architect, Builder, and Principal Certifying Authority, we propose to utilise fire rated plasterboard that achieves the required FRL of 30/30/30 instead. This alternative material achieves the same performance requirements and fire safety outcomes as specified in the approved report.

This modification seeks Council's approval to amend the relevant conditions to permit the use of equivalent materials (fire rated plasterboard) that meet the same FRL of 30/30/30, in lieu of the discontinued intumescent paint product.

3. CONCLUSION

Given this modification represents no change to the operation of the building, ownership and use of spaces, it is clear there are no environmental impacts.

We kindly request that Council review this application and can make a timely resolution. Do not hesitate to contact the undersigned if you need further information on this matter.

Kind Regards,
Samuel Key