



Elizabeth Williams
66D Barry Street
NEUTRAL BAY NSW 2089

D53/22
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 53/22/2 - APPROVAL**

Development Consent Number: 53/22

Land to which this applies: 66D Barry Street, Neutral Bay
Lot No.: X, DP: 442365

Applicant: Elizabeth Williams

Proposal: Section 4.55(1) modifications to Condition C16

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **53/22** and registered in Council's records as Application No. **53/22/2** relating to the land described as **66D Barry Street, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **29 August 2022**, has been determined in the following manner:

1. To modify Conditions C16 in Development Consent (D53/22) as follows:

Protection of Trees

C16. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location
1 x Street Tree	In front of the Yeo Street frontage of the subject site
1 x Street Tree	In front of the Barry Street frontage of the subject site

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Reason for approval:

The proposed modifications seek changes to **Condition C16** relating to the removal of two Palm trees (*Syagrus romanzoffiana*) from the tree protection table, satisfy the provisions of Section 4.55(1) in that the proposed development is substantially the same as what was approved under DA53/22 as the proposed modifications will not alter the use and the general form of the development as originally approved

The proposed modifications would not change the level of compliance with the relevant development standards and controls as contained in North Sydney LEP 2013 and North Sydney DCP 2013.

The proposal would have no detrimental impacts for adjoining properties given that the affected vegetation can be removed without a Tree Management Permit.

How community views were taken into account:

Notification of the subject application was waived in accordance with Section 3.4.2 of Council's Community Engagement Protocol because the proposal would have no impacts for adjoining properties given that the affected vegetation can be removed without a Tree Management Permit.

The conditions attached to the original consent for Development Application No. **53/22** by endorsed date of **29 August 2022** still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Mr Robin Tse**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 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.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 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 6.3 of the Act.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 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 6.6(2)(a) 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 4.55 of *the Environmental Planning and 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 4.55 of *the Environmental Planning and Assessment Act*.

Endorsed for and on behalf of North Sydney Council

12 October 2022

DATE



Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)