



Ms Clare Carter
C/- Contemporary Architecture
4/112 Ben Boyd Road
NEUTRAL BAY NSW 2089

D386/22
AB7 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 386/22/2 - APPROVAL**

Development Consent Number: 386/22

Land to which this applies: 24 Spofforth Street, Cremorne
Lot No.: 10, DP: 231883

Applicant: Clare Carter, Contemporary Architecture

Proposal: Amendment to condition C16 to correct error

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. **386/22** and registered in Council's records as Application No. **386/22/2** relating to the land described as **24 Spofforth Street, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **26 May 2023**, has been determined in the following manner:

1. Condition C16 is modified 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	Height
T1 <i>Eucalyptus microcorys</i>	Council verge in front of 20 Spofforth Street	16m x 14m
T2 <i>Eucalyptus microcorys</i>	Council verge in front of 24 Spofforth Street	15m x 16m
T7 <i>Eucalyptus paniculata</i>	Northwest corner of 20 Spofforth Street	18m x 10m
T8 <i>Jacaranda mimosifolia</i>	Northwest corner of 24 Spofforth Street	10m
T9 <i>Robinia pseudoacacia</i>	Southern boundary of 40 Spofforth Street	10m x 12m
T11 <i>Archontophoenix cunninghamiana</i>	Northern rear boundary of 24 Spofforth Street	6m x 4m
T12 <i>Cyathea cooperi</i> (to be transplanted)	Northern rear boundary of 24 Spofforth Street	5m x 6m

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 and AS4970.

(Reason: Protection of existing environmental and community assets)

Reasons for Approval:

The proposed amendment of Condition C16 (Protection of Trees) is to correct a minor error relating to identifying the correct trees required for protection under DA 386/22 and would not materially change the level of compliance with any environmental planning instrument, *NSLEP 2013* or *NSDCP 2013*. Notification of this application was also not required. Nonetheless, officers consider that there would be no impacts on the residential amenity of any adjoining properties, or on the character of the locality, and the proposal remains fully consistent with the objectives of the Cremorne Conservation Area, the R3 Medium Density Residential Zone, and the reasons for granting consent originally.

The proposed changes were found to be acceptable in the site circumstances and it is recommended that the subject Section 4.55(1) application be approved with the modification of Condition C16.

How community views were taken into account:

There is no requirement to advertise a Section 4.55(1) application, and no neighbour would be impacted by this minor amendment of Condition C16.

The conditions attached to the original consent for Development Application No. **386/22** by endorsed date of **26 May 2023** still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Andrew Beveridge**. 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

30 October 2023

DATE



Signature on behalf of consent authority
ISOBELLA LUCIC
TEAM LEADER (ASSESSMENTS)