



Mr Hao Yan
Wen Architects Pty Ltd
Suite 3.1, 64 Talavera Road,
MACQUARIE PARK NSW 2113

D193/14
KRR (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 193/14/4 - APPROVAL**

Development Consent Number:	193/14
Land to which this applies:	5 Commodore Crescent, McMahons Point Lot No.: 4A, DP: 19137
Applicant:	Hao Yan
Proposal:	Amended Proposal: Section 4.55(2) modification application for various modification to the approved dwelling.

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. **193/14** and registered in Council's records as Application No. **193/14/4** relating to the land described as **5 Commodore Crescent, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **3 December 2014**, has been determined in the following manner:

1. To insert Condition A5 and B1 and, as follows:-

Development in Accordance with Plans (S.4.55 Modifications)

A5. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications:

Plan No.	Dated	Issue	Title	Drawn by	Received
DA-000	7/09/2023	5	Cover Page	WEN Architects	7/09/2023
DA-001	7/09/2023	5	General Notes	WEN Architects	7/09/2023
DA-010	26/05/2023	2	BASIX Commitment	WEN Architects	26/05/2023
DA-020	7/09/2023	5	Site Plan	WEN Architects	7/09/2023
DA-100	7/09/2023	5	Lower Ground Plan	WEN Architects	7/09/2023
DA-110	7/09/2023	5	Ground Floor Plan	WEN Architects	7/09/2023
DA-120	7/09/2023	5	First Floor Plan	WEN Architects	7/09/2023
DA-130	7/09/2023	5	Terrace Level Plan	WEN Architects	7/09/2023
DA-140	7/09/2023	5	Roof Plan	WEN Architects	7/09/2023
DA-210	7/09/2023	5	Elevation	WEN Architects	7/09/2023
DA-220	7/09/2023	5	Elevation	WEN Architects	7/09/2023

Plan No.	Dated	Issue	Title	Drawn by	Received
DA-230	7/09/2023	5	Elevation	WEN Architects	7/09/2023
DA-240	7/09/2023	5	Elevation	WEN Architects	7/09/2023
DA-300	7/09/2023	5	Section A	WEN Architects	7/09/2023
DA-310	7/09/2023	5	Section B	WEN Architects	7/09/2023
DA-400	7/09/2023	5	Window Schedule	WEN Architects	7/09/2023
DA-600	7/09/2023	5	External Finishes Schedule	WEN Architects	7/09/2023
DA-601	7/09/2023	5	External Finishes Schedule	WEN Architects	7/09/2023

and except as amended by the following conditions and this consent. In the event of any inconsistency, the approval plans of DA193/14 prevails.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Construction and Traffic Management Plan (Major DAs and Sites with Difficult Access)

B1. Prior to issue of the relevant Construction Certificate, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. The locations of any proposed Work Zones in the frontage roadways,
 - ii. Locations and type of any hoardings proposed,
 - iii. Area of site sheds and the like,
 - iv. Location of any proposed crane standing areas,
 - v. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries,
 - vi. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected, and
 - vii. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A Traffic Control Plan(s) for the site incorporating the following: -
 - i. Traffic control measures proposed in the road reserve that are in accordance with the TfNSW publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum TfNSW 'red card' qualification).
 - ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- c) A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all times.
A copy of this route is to be made available to all contractors and must be clearly depicted at a location within the site.
- d) A Waste Management Plan in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 must be provided. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process,
- (e) Evidence of TfNSW concurrence where construction access is provided directly or within 20m of an Arterial and/or Classified Road,

- (f) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements, and
- (g) For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

A suitably qualified and experienced traffic engineer or consultant must prepare the Construction and Traffic Management Plan.

As this plan has a direct impact on the local road network, it must be submitted to and reviewed by Council prior to the issue the relevant Construction Certificate. A certificate of compliance with this condition from Council's Traffic and Transport Engineers as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Certifying Authority for approval of the application for the relevant Construction Certificate.

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site.

All works must be undertaken in accordance with the approved Construction and Traffic Management Plan.

A copy of the approved Construction and Traffic Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition and construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

2. To modify Conditions A4, C24 and G7 as follows:-

Approved Landscaping Plan

A4. Landscaping works on the site are to be undertaken generally in accordance with the landscaping plan numbered LAN-DA-02 and LAN-DA-06 revision B, prepared by 360 degrees, dated 9th September 2014, and received by Council on 22 September 2014. S4.55-L101 and S4.55-L102 revision A, prepared by Canvas, dated 01/08/22, and received by Council on 28 November 2023

(Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development)

BASIX Certificate

C24. Under s.75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. (514173S_03) for the development are fulfilled. 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.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Landscaping

G7. The landscaping shown in the approved landscape plans numbered LAN-DA-02 and LAN-DA-06 revision B, prepared by 360 degrees, dated 9th September 2014, and received by Council on 22 September 2014 S4.55-L101 and S4.55-L102 revision A, prepared by Canvas, dated 01/08/22, and received by Council on 28 November 2022 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Reasons for Approval:

The proposed modifications are not considered to result in any additional unreasonable impact, with the proposed modified development assessed as substantially the same development as originally approved.. Furthermore, the modifications do not result in any new or unreasonable amenity impact to adjoining properties (subject to conditions where appropriate) or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55 and 4.15 of *the Environmental Planning and Assessment Act 1979*, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for approval.

How community views were taken into account:

The owners of adjoining properties and the local community precinct committee were notified of the amended development for a 14-day period in accordance with Council's Community Engagement Protocol. The notification resulted in four (4) submission which have been addresses within the report and dealt with via new conditions of development approval. Amended plans to reduce new window opening have been received in response to privacy concerns.

The modifications are not considered to result in a new material impact to adjoining properties or are addressed via new recommended conditions of development consent. Accordingly, the modifications can be supported.

The modifications are consistent with the reasons for granting development consent to the originally approved development. The application is recommended for approval subject to amendment to the as approved conditions.

The conditions attached to the original consent for Development Application No. **193/14** by endorsed date of **3 December 2014** still apply.

ADVISINGS


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

1 November 2023

DATE



Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)