



Mr G Zhang  
TWT Property Group Pty Ltd  
C/- Ethos Urban  
Level 5, 55 Chandos Street  
ST LEONARDS NSW 2065

D161/20  
DK4 (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 161/20/5 - APPROVAL**

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**Development Consent Number:** 161/20

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**Land to which this applies:**

**23-35 Atchison Street, St Leonards**

23 Atchison Street: Lot 27, SEC 10, in DP 2872

25 Atchison Street: Lot 28, SEC 10, in DP 2872

27 Atchison Street: Lot 29, SEC 10, in DP 2872

31 Atchison Street: Lot 30, SEC 10, in DP 2872

35 Atchison Street: Lot 321 in DP 566480

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**Applicant:**

G Zhang - TWT Property Group Pty Ltd

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**Proposal:**

**Modifications to DA 161/20** including internal layout changes, changes to basement layout including vehicle and bike parking, alterations to the façade, revised unit mix to provide 29 x Studio/1 bed, 32 x 2 Bed and 32 3-4 bed units (93 units total), install non-residential lift to Tenancy 01 and amend **Condition C7** relating to maintenance of planter boxes.

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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. **161/20** and registered in Council's records as Application No. **161/20/5** relating to the land described as **23-35 Atchison Street, St Leonards**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **18 May 2021**, has been determined in the following manner:

**1. To amend Condition A1 of the consent so as to read as follows:**

**Development in Accordance with Plans**

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

<b>PlanNo.</b>	<b>Issue</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>
A1.01	7	Drawing List	Team 2 Architects	25/08/2023
A1.02	8	Development Summary	Team 2 Architects	25/08/2023
A2.04	5	Site Plan and Setback Diagram	Team 2 Architects	25/08/2023
A3.01	9	Basement 3	Team 2 Architects	25/08/2023
A3.02	9	Basement 2	Team 2 Architects	25/08/2023
A3.03	9	Basement 1	Team 2 Architects	25/08/2023
A3.04	9	Lower ground level	Team 2 Architects	25/08/2023
A3.05	9	Upper ground level	Team 2 Architects	25/08/2023
A3.06	9	Level 1	Team 2 Architects	25/08/2023
A3.07	10	Level 2	Team 2 Architects	25/08/2023
A3.08	10	Level 3	Team 2 Architects	25/08/2023
A3.09	10	Level 4	Team 2 Architects	25/08/2023
A3.10	10	Level 5	Team 2 Architects	25/08/2023
A3.11	10	Level 6	Team 2 Architects	25/08/2023
A3.12	10	Levels 7-9	Team 2 Architects	25/08/2023
A3.13	10	Levels 10-13	Team 2 Architects	25/08/2023
A3.14	10	Levels 14-15	Team 2 Architects	25/08/2023
A3.15	10	Level 16	Team 2 Architects	25/08/2023
A3.16	9	Roof	Team 2 Architects	25/08/2023
A4.01	8	North Elevation - Atchison Street	Team 2 Architects	25/08/2023
A4.02	8	South Elevation - Albany Lane	Team 2 Architects	25/08/2023
A4.03	8	East Elevation - Oxley Street	Team 2 Architects	25/08/2023
A4.04	8	West Elevation - Through site link	Team 2 Architects	25/08/2023
A5.01	8	Section A-A	Team 2 Architects	25/08/2023
A5.02	9	Section B-B	Team 2 Architects	25/08/2023
A5.03	7	Section C-C	Team 2 Architects	25/08/2023
A5.04	7	Section D-D & E-E	Team 2 Architects	25/08/2023
A5.05	6	Section F-F & G-G	Team 2 Architects	25/08/2023
A6.01	5	Pre/Post Adaptation Plan - Type 1	Team 2 Architects	25/08/2023
A6.02	5	Pre/Post Adaptation Plan - Type 2	Team 2 Architects	25/08/2023
A6.03	5	Pre/Post Adaptation Plan - Type 3	Team 2 Architects	25/08/2023
A6.04	4	Pre/Post Adaptation Plan - Type 4	Team 2 Architects	25/08/2023
A6.05	3	Pre/Post Adaptation Plan - Type 5	Team 2 Architects	25/08/2023
A7.01	6	Finishes Schedule	Team 2 Architects	25/08/2023
A8.01	6	Shadow Diagram - 21 <sup>st</sup> March	Team 2 Architects	25/08/2023
A8.02	6	Shadow Diagram - 21 <sup>st</sup> June	Team 2 Architects	25/08/2023
A8.03	6	Shadow Diagram - 21 <sup>st</sup> September	Team 2 Architects	25/08/2023
A8.04	4	Shadow Analysis	Team 2 Architects	25/08/2023
A8.05	4	Shadow Analysis	Team 2 Architects	25/08/2023
A8.06	4	Shadow Analysis - Winter Solstice 3.00pm	Team 2 Architects	25/08/2023
A9.01	7	Solar and Cross Flow Ventilation Diagram	Team 2 Architects	25/08/2023

2. **To amend Condition A4 of the consent so as to read as follows:**

A4. External finishes and materials must be in accordance with the following submitted schedule:

Plan No.	Issue	Title	Drawn by	Dated
A7.01	6	Finishes Schedule	Team 2 Architects	25/08/2023

(Reason: To ensure the conditions of consent refer to the correct external finishes and materials schedule)

3. **To amend Condition C7 of the consent so as to read as follows:**

**Planter Levels 1-5**

C7. All planter areas on Levels 1-5 shall be non-trafficable and shall form part of unit entitlement for certain units.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issues Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To comply with the terms of this development consent)

4. **To amend condition C24 of the consent so as to read as follows:**

**Bicycle Storage and Parking**

C24. The bicycle storage area must accommodate a minimum of 82 bicycles (non-residential); and 10 bicycles (visitor parking). The bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards.

Each individual residential basement storage area (Total of 93 apartments) shall be of an appropriate size that is capable of storing a bicycle.

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

(Reason: To promote and provide facilities for alternative forms of transport)

5. **To amend condition C26 of the consent so as to read as follows:**

**Accessible Parking Spaces to be provided**

C26. A total of 16 (residential) and 4 (non-residential) accessible parking spaces shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

(Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with the Federal legislation)

**6. To amend condition C57 of the consent so as to read as follows:**

**BASIX Certificate**

C57. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1117747M\_09 dated 24 August 2023 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)

**7. To amend condition G34 of the consent so as to read as follows:**

**Allocation of Spaces**

G34. Car parking must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

39	Residential car parking (including 15 adaptable spaces)
16	Residential adaptable car parking
18	Non-residential car parking (including 4 adaptable spaces)
4	Non-residential adaptable car parking
4	Residential motorbike
2	Non-residential motorbike

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

Electric car charging stations and the car wash bay must be designated as common property on the strata plan and must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

**8. To amend condition I4 of the consent so as to read as follows:**

**Allocation of Spaces**

I4. The allocation of Carparking spaces within the development must be maintained at all times in accordance with the terms of this consent. The allocation of spaces must be maintained in accordance with the following table:

- 39 Residential car parking (including 15 adaptable spaces)
- 16 Residential adaptable car parking
- 18 Non-residential car parking (including 4 adaptable spaces)
- 4 Non-residential adaptable car parking
- 4 Residential motorbike
- 2 Non-residential motorbike

Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Electric car charging stations and the car wash bay must be designated as common property on the strata plan and must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

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The proposal involves the modification of a consent that comprises a combination of internal and external changes. The purpose of these changes is to provide additional functionality and amenity for the mixed-use building, and to establish any additional engineering components and to rationalise certain components.

**Reasons for Approval:**

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including SEPP 65 and the NSLEP 2013) have been described and detailed throughout this report. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

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**How community views were taken into account:**

In accordance with the provisions of Council's Community Participation Plan, the subject application was notified to surrounding properties and the Holtermann Precinct Committee for 14 days - concluding on 13 October 2023. No submissions were received during this period.

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The conditions attached to the original consent for Development Application No. **161/20** by endorsed date of **18 May 2021** still apply.

**ADVISINGS**

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

**9 February 2024**

DATE



Signature on behalf of consent authority  
DAMON KENNY  
**EXECUTIVE PLANNER (ASSESSMENTS)**