



Mr P Lonergan
Cracknell & Lonergan Architects Pty Ltd
156A Church Street
NEWTOWN NSW 2042

D399/17

JD6 (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION DA 399/17/8 - REFUSAL**

Development Application No.:	399/17
Land to which this applies:	61 Ernest Street, Crows Nest Lot No.: 1, DP: 926655
Applicant:	P Lonergan, Cracknell & Lonergan Architects Pty Ltd
Proposal:	Modify consent No DA 399/17 to enable removal of a tree (<i>Cinnamomum camphora</i>) at the rear of No. 61 Ernest Street Crows Nest, adjacent to Burlington Lane, required to be retained by the current development consent

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. **399/17** and registered in Council's records as Application No. **399/17/8** relating to the land described as **61 Ernest Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **16 August 2018** (as amended), has been refused.

Reasons for Refusal

1. Removal of the subject camphor laurel (*Cinnamomum camphora*) tree on the rear boundary of the site, 61 Ernest Street Crows Nest, would have adverse impacts on built and natural environments.
2. Approval to remove the subject tree, would antithetical to the agreement struck between Council and the applicant in a Land and Environment Court-sponsored conciliation process.
3. Removal would be inconsistent with relevant provisions of the North Sydney Local Environmental Plan 2013, in respect of:
 - a) The fourth objective of the R2 Low Density Residential zone.

4. Removal would be inconsistent with relevant provisions of North Sydney Development Control Plan 2013, Part B Residential Development, Section 16 Tree & Vegetation Management, in respect of:
- a) Cl. 161.1 General Objectives O2, O3, O5, O6,
 - b) Cl. 16.2.1 Objectives O1, and
 - c) Cl. 16.2.2 Provisions P2, P5.

How community views were taken into account:

Matters raised by submissions made when the applications were notified in accordance with Council's Community Engagement Protocol have been considered, as required.

Any variation to the Development Consent can only be made with the written approval of the Council. Major variations will require a new or amended Development Consent.

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.

An applicant who is dissatisfied with the determination of a consent authority has a right of appeal to the Land and Environment Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act, 1979*.

Endorsed for and on behalf of North Sydney Council,

23 May 2024

DATE



Signature on behalf of consent authority
JIM DAVIES
EXECUTIVE PLANNER (ASSESSMENTS)