

Original signed by: David Hoy Dated: 4/9/2020

Carol Lin and Yang-Jun Wang
C/- Contemporary Architecture Pty Ltd
203, 10-12 Clarke Street
CROWS NEST NSW 2065

D155/15
DWH(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 155/15/2 – APPROVAL**

Development Consent Number: 155/15/2

Land to which this applies: 116 Atchison Street, Crows Nest
Lot No.: 1, DP: 115568

Applicant: Carol Lin and Yang-Jun Wang
C/- Contemporary Architecture Pty Ltd

Proposal: Modify DA 155/15 to allow tree removal and various
landscape works.

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. **155/15** and registered in Council's records as Application No. **155/15/2** relating to the land described as **116 Atchison Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 August 2015, has been determined in the following manner: -

1. To insert condition/s A6 of the consent dated 17/08/2015 to read as follows:

A6. Development in Accordance with Plans (S4.55 Amendments)

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 shown on:

Plan No.	Issue	Dated	Title	Drawn by	Received
DA01	B	17.04.2020	Cover & site plan	Contemporary Architecture Pty Ltd	20 April 2020

DA04	B	17.04.2020	Ground & level 1 plan	Contemporary Architecture Pty Ltd	20 April 2020
DA05	B	17.04.2020	Roof plan	Contemporary Architecture Pty Ltd	20 April 2020
DA06	A	01.04.2020	Elevation street, 1 & 2	Contemporary Architecture Pty Ltd	20 April 2020
DA07	A	01.04.2020	Elevation street, 3 & 4	Contemporary Architecture Pty Ltd	20 April 2020
DA08	A	01.04.2020	Section A & B	Contemporary Architecture Pty Ltd	20 April 2020

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

2. To modify condition/s C14 and G9 to read as follows:

Approval for Removal of Trees

C14. The following tree(s) are approved for removal in accordance with the development consent

Tree	Location	Height (m)
All trees shown as removed on the approved landscape plan. Specifically, that consent be granted to the removal "T07" <i>Howeafosteriana</i> x 3 (Kentia Palm) and "T08" <i>Magnolia soulangiana</i>	Rear of property	2-8 metres/ various

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

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)

Landscaping

G9. The landscaping shown in the approved Landscape Plan numbered L01 of 1 (Issue D) dated 7/08/2020 prepared by Hortus Design and received by Council on 10/8/2020, must be completed prior to the issue of any Occupation Certificate, including provision for one additional *Howeafosteriana* (Kentia Palm) to be placed within the rear garden.

(Reason: To ensure compliance)

3. To insert the following additional condition(s);

Tree replenishment required

G9A. Prior to the issue of any occupation certificate for the development, the following tree plantings must be carried out in accordance with the approved landscape plan referred to in Condition G9.

Tree	Location	Pot Size (min)	Quantity
1 x <i>Acer Palmatum</i> (Coral Bark Maple)	Front garden	25L	1
2 x <i>Howeafosteriana</i> (Kentia Palm)	Rear garden	100L	2
1 x <i>Magnolia soulangiana</i> (Tulip Magnolia)	Rear Garden	100L	1

The required replenishment trees are to be maintained in place. In the event of failure or loss of any of the above replenishment trees within 5 years of the date of the issue of the occupation certificate, a replacement tree must be planted and maintained.

(Reason: To replace trees removed from the site)

The conditions attached to the original consent for Development Application No. 155/15 by endorsed date of 5 August 2015 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. 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 & 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 & Assessment Act.

Endorsed for and on behalf of North Sydney Council

DATE

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