

Craig Anthony Greenwood  
C/- Contemporary Architecture  
203/10-12 Clarke Street  
CROWS NEST NSW 2065

D282/18  
DWH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 282/18/2 – APPROVAL**

**Development Consent Number:** 282/18/2

**Land to which this applies:** 15 Hayberry Street, Crows Nest  
Lot No.: 2, DP: 582812

**Applicant:** Craig Anthony Greenwood

**Proposal:** Modify of DA 282/18 proposing changes to conditions to provide for amendments to ground and first floor additions.

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. **282/18** and registered in Council's records as Application No. **282/18/2** relating to the land described as **15 Hayberry Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 8 August 2019, has been determined in the following manner: -

*1. Condition A1 of the consent be modified to read as follows:*

**Development in Accordance with Plans/documentation (S4.55 Amendments)**

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.

Plan No.	Issue	Title	Dated	Drawn by	Received
DA01	C	Cover & Site Plan	14/03/2019	Contemporary Architecture Pty Ltd	27 March 2019

DA02	B	Site Analysis & Location Map	04/02/2019	Contemporary Architecture Pty Ltd	27 March 2019
DA07	C	Ground Floor Plan	14/03/2019	Contemporary Architecture Pty Ltd	27 March 2019
DA08	C	Level 1 Plan	14/03/2019	Contemporary Architecture Pty Ltd	27 March 2019
DA09	C	Roof Plan	14/03/2019	Contemporary Architecture Pty Ltd	27 March 2019
DA10	C	Elevations 1 & 2	14/03/2019	Contemporary Architecture Pty Ltd	27 March 2019
DA11	C	Elevations 3 & 4	14/03/2019	Contemporary Architecture Pty Ltd	27 March 2019
DA12	C	Sections A & B	14/03/2019	Contemporary Architecture Pty Ltd	27 March 2019
DA13	C	Sections C, D, E & F	14/03/2019	Contemporary Architecture Pty Ltd	27 March 2019
DA40	B	Finishes Schedule	04/02/2019	Contemporary Architecture Pty Ltd	27 March 2019

except where amended under the provisions of S.4.55 of the Act by the following drawings:

Plan No.	Issue	Title	Dated	Drawn by	Received
S4.55-01	-	Cover & site plan	25/9/19	Contemporary Architecture Pty Ltd	28/10/19
S4.55-04	-	Ground floor plan	25/9/19	Contemporary Architecture Pty Ltd	28/10/19
S4.55-05	-	Level 1 plan	25/9/19	Contemporary Architecture Pty Ltd	28/10/19
S4.55-06	-	Roof plan	25/9/19	Contemporary Architecture Pty Ltd	28/10/19
S4.55-07	-	Elevations 1, 2 & Street	25/9/19	Contemporary Architecture Pty Ltd	28/10/19
S4.55-08	-	West Elevation, Elevations 3, 4 & Street Elevation 2	25/9/19	Contemporary Architecture Pty Ltd	28/10/19
S4.55-09	-	Sections A & B	25/9/19	Contemporary Architecture Pty Ltd	28/10/19

and except where amended by the following conditions of consent.

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

**2. Condition A4 is amended to delete A4. i. & A4. iii**

3. *Condition Nos. C14 & C15 were applied in error, unreasonably relate to the approved development, and are deleted.*
4. *Condition Nos. C16 is amended to read as follows:*

**Privacy Screens to first floor bedroom window**

- C16. Fixed privacy screens are to be provided to the eastern and western sides of W05 as shown on the revised elevations. The required screens are to consist of solid metal material, shall extend for the full height of window W05 and project 600mm from the face of the rear wall. The screens required by this condition are to be maintained at all times.

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 an adequate level of privacy is provided to the private open spaces at adjoining properties 13 Hayberry Street and 17 Hayberry Street)

5. *The following additional condition shall be imposed:*

**Skylight(s)**

- C16A. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100mm above roof plane when in a closed position. Plans and specifications which comply 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 fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

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**Reason for approval:**

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are generally 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 & 4.15(1) of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally approved by Council.

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The modification is therefore supported and can be approved.

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

The owners of adjoining properties and the Hayberry Precinct were notified of the proposed development for a 14-day period, between 8 November 2019 and 22 November 2019. The notification resulted in one (1) submission which was addressed in the delegated report.

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The conditions attached to the original consent for Development Application No. 282/18 by endorsed date of 8 August 2019 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**

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DATE

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER ASSESSMENTS**