

Original signed by **Robyn Pearson** on **18/1/2021**

Prudence Paver  
C/- Contemporary Architecture  
Suite 203, 10-12 Clarke Street  
CROWS NEST NSW 2065

D208/16  
HS1 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED**  
**SECTION 4.55 MODIFICATION 208/16/5 – APPROVAL**

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**Development Consent Number:** 208/16/5

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**Land to which this applies:** 99 Bay Road, Waverton  
Lot No.: 1, DP: 913026

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**Applicant:** Prudence Paver

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**Proposal:** Section 4.55(1A) modification application to modify DA208/16 with regards to side setbacks, rear setbacks and roof height.

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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. **208/16** and registered in Council's records as Application No. **208/16/5** relating to the land described as **99 Bay Road, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 1 March 2017, has been determined in the following manner: -

*1. To modify the development consent (D208/16) and modify conditions A1 as follows:*

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

A1. 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 in colour on:

Drawings numbered DA01, DA02, DA07 to DA16 (Rev.B), dated 21/12/16, drawn by Contemporary Architecture, and received by Council on 23/12/16

as amended by the following plans:

<b>Issue</b>	<b>Title</b>	<b>Drawn By</b>	<b>Received</b>
A	Site Plan And Legends	Contemporary Architecture Pty Ltd	18.11.2020
A	Survey	Contemporary Architecture Pty Ltd	18.11.2020
A	DA Approved Plans	Contemporary Architecture Pty Ltd	18.11.2020
A	DA Approved Elevations	Contemporary Architecture Pty Ltd	18.11.2020
A	Ground Floor, Level 1, Roof Plan	Contemporary Architecture Pty Ltd	18.11.2020
A	Elevation SE, 1 & 2	Contemporary Architecture Pty Ltd	18.11.2020
A	Elevation 3 & 4	Contemporary Architecture Pty Ltd	18.11.2020
A	Section A & B	Contemporary Architecture Pty Ltd	18.11.2020

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

**Terms of Consent (D208/16/5)**

A4. Approval is granted for the following works as shown on drawings below:

<b>Issue</b>	<b>Title</b>	<b>Drawn By</b>	<b>Received</b>
A	Site Plan And Legends	Contemporary Architecture Pty Ltd	18.11.2020
A	Survey	Contemporary Architecture Pty Ltd	18.11.2020
A	Da Approved Plans	Contemporary Architecture Pty Ltd	18.11.2020
A	Da Approved Elevations	Contemporary Architecture Pty Ltd	18.11.2020
A	Ground Floor, Level 1, Roof Plan	Contemporary Architecture Pty Ltd	18.11.2020
A	Elevation SE, 1 & 2	Contemporary Architecture Pty Ltd	18.11.2020
A	Elevation 3 & 4	Contemporary Architecture Pty Ltd	18.11.2020
A	Section A & B	Contemporary Architecture Pty Ltd	18.11.2020

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear)

**2. Condition G7 to be deleted**

**Reason for approval:**

The proposed modifications satisfy Section 4.55(1A) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

The proposed modifications would not result in significant changes to the form, bulk and scale of the approved development.

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The proposed modifications to the roof as well as the rear and side of dwelling and would not cause adverse material amenity impacts on the adjoining properties in terms of visual privacy, amenity loss or overshadowing.

In summary, the proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(1A) application be approved with modifications to the relevant conditions.

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

The development application was notified to adjoining properties and the Waverton Precinct between the 4 December 2020 and 18 December 2020. Nil (0) submissions were received during notification period.

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The conditions attached to the original consent for Development Application No. 208/16 by endorsed date of 1 March 2017 still apply.

**ADVISINGS**

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

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