

Elaine & Richard Wong
4/5 11 O'Connell Street
NEWTOWN NSW 2042

D311/13
(KRR) (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
(AS AMENDED)**

**Notice to Applicant of Determination of Request
to Modify a Development Consent**

Pursuant to Section 96 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **311/13** and registered in Council's records as Application No. **311/13/5** relating to the land described as **8 Bay View Street, Lavender Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 13 March 2014, has been determined in the following manner:-

1. To amend Condition A1 and G2, as follows:-

Development in Accordance with Plans (*Section 96 Amendments*)

A1. The development being carried out in accordance with Drawings Numbered 233_100 DA_3, 233_101 DA_3, 233_102 DA_3, 233_103 DA_3, 233_105 DA_3, dated 20 December 2013, Drawn by Collins and Turner and received by Council on 24 December 2013. Drawings Numbered 233_104 DA_4, 233_200 DA_4, 233_201 DA_4, 233_202 DA_4, 233_203 DA_4, 233_300 DA_4, dated 21 February 2014, drawn by Collins and Turner and received by Council on 24 February 2014 and endorsed with Council's approval stamp, except where amended by the following conditions and as modified by highlighting on:

(a) *Section 96 DA311/13/2 Drawings numbered 233_100 – 233_105, 233_200 – 233_203, 233_300, 233_302 Revision S96, dated 29 April 2014, drawn by Collins and Turner, and received by Council on 5 May 2014. Drawing numbered 233_500 Revision S96_2, dated 09 July 2014, drawn by Collins and Turner, and received by Council on 09 July 2014.*

(b) *Section 96 DA311/13/3 Drawing as per the following table:*

Drawing Numbered/ Title	Revision	Dated	Drawn by	Date Received by Council
233_000 Content Sheet	S96	29/04/14	Collins and Turner	24 November 2015
233_001 Context Plan	S96	29/04/14	Collins and Turner	24 November 2015
233_003 Stormwater Sediment and Erosion Control Plan	S96/2	15/11/15	Collins and Turner	24 November 2015
233_004 Area Diagrams Plans	S96/3	01/02/16	Collins and Turner	29 February 2016
233_100 Site Plan	S96	29/04/14	Collins and Turner	24 November 2015
233_100 Garage Floor Plan	S96/2	15/11/15	Collins and Turner	24 November 2015
233_102 Ground Level Plan	S96	29/04/14	Collins and Turner	24 November 2015
233_103 Level 1 Plan	S96	29/04/14	Collins and Turner	24 November 2015
233_104 Roof Level Plan	S96/3	01/02/16	Collins and Turner	29 February 2016
233_105 Landscaping Plan	S96	29/04/14	Collins and Turner	24 November 2015
233_200 North Elevation	S96	01/02/16	Collins and Turner	29 February 2016
233_201 South Elevation	S96		Collins and Turner	24 November 2015
233_201 East and West Elevation	S96		Collins and Turner	24 November 2015
233_300 Long Section	S96		Collins and Turner	24 November 2015
233_302 Long Section	S96	12/11/15	Collins and Turner	24 November 2015
233_302 Cross Section	S96/2	01/02/16	Collins and Turner	29 February 2016

(c) Section 96 DA311/13/5 Drawing as per the following table:

Drawing Numbered /Title	Revision	Dated	Drawn by	Date Received by Council
233_109 Existing Survey	CC_A	25/09/17	Collins and Turner	2 November 2017
233_201 East and West Elevation	S96/H1	19/10/17	Collins and Turner	2 November 2017

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

Completion / Reconstruction of works to Heritage Sandstone Wall

G2. The works to the Heritage Sandstone Wall at the Bayview Street level are to be completed to the satisfaction of a suitably qualified heritage consultant who is listed on the accredited consultant list held with the NSW Heritage Office or Council's Heritage Conservation Planner prior to the issue of any Occupation Certificate.

- Certification shall be provided to Council demonstrating that a suitably qualified Heritage Engineer has inspected the works on completion and has certified that the wall has been correctly built in accordance with all relevant conditions and requirements.
- Certification shall be provided to Council certifying that the stones have been correctly relocated in their original position, with documentary

evidence to support the certification.

An Occupation Certificate shall not be issued until the applicant has demonstrated all abovementioned requirements have been completed to the written satisfaction of Council's Conservation Planner.

(Reason: To ensure the appropriate reconstruction to a satisfactory standard of the front heritage wall)

2. To delete Condition A5, as follows:-

Demolition Plan to be Provided

~~A5. Prior to the commencement of any demolition works a plan detailing the extent of demolition to the existing sandstone retaining wall must be submitted to and approved in writing by Council. The detail demolition drawings must be prepared in consultation with a suitably qualified and recognised heritage architect and must include a street elevation of the wall at 1:50 or 1:100 scale outline the extent of material to be removed and replaced.~~

~~The detailed plan must be to the satisfaction of Council's conservation planner and approval issued in writing prior to the commencement of any demolition works on site.~~

~~(Reason: To clarify the extent of demolition to retain the integrity of the heritage listed sandstone wall)~~

3. To insert the following new Conditions C30 and C31 as follows:-

Dismantling of the northern end of the front stone wall

C30. An amended Construction Certificate shall be obtained for the proposed demolition of the northern portion of the front stone wall under **Section 96 Modification DA311/13/5**. Prior to the issue of the relevant Construction Certificate, the following requirements shall be met:

1. All stone blocks within the existing front wall shall be retained and reused within the rebuilding of the front wall.
2. All works to the stone wall, both dismantling and rebuilding, are to be undertaken under the close supervision of a heritage architect or heritage engineer, listed on the NSW Heritage Office Consultant's List (referred hereafter as 'the heritage architect / engineer).
3. All sandstone used in the works to the wall are to be whole stone blocks reclaimed from the part of the existing wall that is to be demolished, with no alteration to the size or finish of the stone blocks. No approval is given for the use of any stone that is not or was not part of the existing wall, in these works.

4. All blocks that are to be removed and replaced are to be numbered and replaced in their original location or as near as practicable.
5. A photographic survey of the wall remaining is to be undertaken and submitted to Council prior to its removal.
6. All stones are to be numbered and their positions recorded prior to dismantling the wall. The stone numbering and recording is to be undertaken under the supervision of, and certified by the heritage architect/engineer. A letter certifying that this numbering and recording of the stones has been correctly undertaken, with documentary evidence to support the certification, is to be submitted to Council, prior to reconstruction of the wall.
7. All stones removed from the wall are to be retained on site, and protected from damage, throughout the construction process. The stones are not to be removed from this site at any stage.

The Certifying Authority must ensure that the building plans and specifications submitted by the applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Heritage Conservation and to comply with the terms of this development consent)

Rebuilding of the front stone retaining wall

C31. An amended Construction Certificate shall be obtained for the proposed rebuilding of the entire front stone wall, with the terms amended under **Section 96 Modification DA311/13/5**. Prior to the issue of the relevant Construction Certificate, the following requirements shall be met:

1. All works to the stone wall, both dismantling and rebuilding, are to be undertaken under the close supervision of a heritage architect or heritage engineer, listed on the NSW Heritage Office Consultant's List (referred hereafter as 'the heritage architect/engineer')
2. All stones are to be re-located in their original position (or as near as practicable) when the wall is rebuilt. The identification of the location of the stones within the rebuilt wall is to be undertaken under the supervision of, and certified by the heritage architect/engineer. A letter certifying that the stones have been correctly relocated in their original position, with documentary evidence to support the certification, is to be submitted to Council's Conservation Planner for approval, prior to release of the Occupation Certificate (**Refer to Amended Condition G2**).

3. Stainless Steel wall ties are to be used, fitted into bed courses and then pinned into the stone above and below the bed joint (ie not rear face fixed). The ties are to be epoxy grouted into the block wall.
4. Lime mortar is to be used, with 1:2:6 cement:lime:sand ratio.
5. A strip drain is to be fixed to the blockwork at 100mm centres, draining down to weepholes created by leaving the lower perpend open.
6. The heritage engineer is to inspect the works on completion and certify that the wall has been correctly built in accordance with these conditions. A letter certifying that the works have been undertaken to the heritage engineer's satisfaction is to be submitted to Council's Conservation Planner for approval, prior to the release of the Occupation Certificate.
7. The stone wall shall be constructed entirely within the property boundary.

The Certifying Authority must ensure that the building plans and specifications submitted by the applicant, referenced on and accompanying the issued amended Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Heritage Conservation and to comply with the terms of this development consent)

The conditions attached to the original consent for Development Application No. 311/13 by endorsed date of 13 March 2014 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 97 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (b) Pursuant to Section 96AB, an applicant is able to request Council to review its determination. An application for a review under Section 96AB 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 81A(2) (a) of the Act.
 - (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b1)(i) 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 81A(2)(c) 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 96 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 96 of the Environmental Planning & Assessment Act.

DATE

Signature on behalf of consent authority
KIM ROTHE
ACTING EXECUTIVE PLANNER