

Joanne Scanlan  
C/- Contemporary Architecture Pty Ltd  
203/10-12 Clarke Street  
CROWS NEST NSW 2065

D10/16  
LD (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. **10/16** and registered in Council's records as Application No. **10/16/2** relating to the land described as **3 Holbrook Avenue, Kirribilli**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 July 2016, has been determined in the following manner: -

(i) **The following condition is to be added:**

**Development in Accordance with Plans (S96 Amendments)**

A4. 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:

Drawing No.	Revision	Title	Drawn by	Dated
S96-01	C	Cover and Site Plan	Contemporary Architecture Pty Ltd	24/11/17
S96-02	B	Site Analysis and Location Map	Contemporary Architecture Pty Ltd	17/10/17
S96-08	C	Level 1	Contemporary Architecture Pty Ltd	24/11/17
S96-09	C	Roof Plan	Contemporary Architecture Pty Ltd	24/11/17
S96-10	C	Elevations 1, 2 and 3	Contemporary Architecture Pty Ltd	24/11/17
S96-11	C	Elevation 4	Contemporary Architecture Pty Ltd	24/11/17
S96-12	C	Sections A & B	Contemporary Architecture Pty Ltd	24/11/17
S96-13	C	Sections C D and E	Contemporary Architecture Pty Ltd	24/11/17

except as amended by the following conditions and this consent.

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

### Approval for Removal of Trees

C16. The following tree is approved for removal in accordance with the development consent:

Tree	Location	Height (m)
Mulberry tree	Rear of the existing dwelling	Approximately 8m

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)

(ii) **The following conditions are to be modified:**

### Heritage Requirements

C1. Prior to the issue of a 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 following heritage requirements:

**a) Roof Sheeting**

The roof sheeting over the front entry and rear dormer are to have a corrugated profile.

**b) Roof Tiles**

The new roof tiles must match the existing roof tiles.

**c) New Windows and Doors**

The new windows and doors must have aluminium or steel framing sections of a 45mm width or wider, or be timber-framed.

(Reason: To ensure the materials are sympathetic to the character of the existing dwelling and conservation area.)

### Solar Tube(s)

C8. Solar tube flashing(s) and frame(s) to be coloured to match the roof material. Solar tube (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 solar tube(s) on the roof plane)

### **Roofing Materials – Reflectivity**

C9. The corrugated roofing sheeting over the rear dormer and front entry must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. 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, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

### **BASIX Certificate**

C14. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A283743 dated 12 July 2017 for the development are fulfilled. 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 the proposed development will meet the Government's requirements for sustainability and statutory requirements)

### **Privacy**

C15. The following privacy devices must be provided:

- a) Fixed louvre privacy screens must be attached to both the eastern and western ends of the southern first floor window (W01), as indicated on the plans that form part of Condition A4 of this consent.
- b) The fixed louvres as indicated in (a) must be angled in such a manner so as not to cause direct overlooking of either the eastern ground floor window of the apartment at No. 33 Carabella Street, Kirribilli or the rear private open space of No. 5 Holbrook Avenue, Kirribilli

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 adjoining properties located at No. 33 Carabella Street and 5 Holbrook Avenue, Kirribilli)

The conditions attached to the original consent for Development Application No. 10/16 by endorsed date of 6 July 2016 still apply.

### **ADVISINGS**

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

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
TEAM LEADER (ASSESSMENTS)