

Smith & Tzannes Architects
M1/147 McEvoy Street
ALEXANDRIA NSW 2015

DA 316/15/3
(RT) (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. **316/15/3** and registered in Council's records as Application No. **316/15** relating to the land described as **12A Milson Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 20 October 2017, has been determined in the following manner: -

1. To modify condition A1 to include the revised plans:

Development in Accordance with Plans (S96 Amendments)

A1. The development being carried out in accordance with the following drawings numbered DA-A-100 Rev B, DA-A-101 Rev C, DA-A-103 Rev C, DA-A-200 Rev C, DA-A-201 Rev C, DA-A-202 Rev C, DA-A-203 Rev C, DA-A-204 Rev C, all dated 17-11-15 and DA-A-205 Rev A dated 04-12-15, DA29B, all drawn by Smith & Tzannes Architecture Urban Planning, and received by Council on 17 December 2015 and Drawings numbered DA-A-102 Rev D, dated 18.02.16, drawn by Smith & Tzannes Architecture Urban Planning, and received by Council on 18 February 2016, and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D316/15/2:

Plan No.	Rev.	Date	Drawn by	Received Date
DA-A-100	C	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-101	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-102	D	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-103	F	17-10-16	Smith & Tzannes Architecture Urban Planning	17 October 2016
DA-A-200	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016

DA-A-201	D	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-202	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-203	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-204	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-205	B	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016

except as modified by highlighting on the following drawings for D316/15/3:

Plan No.	Rev.	Date	Drawn by	Received Date
CD-A-101	Q	12-10-17	Smith & Tzannes Architecture Urban Planning	20 October 2017
CD-A-201	G	12-10-17	Smith & Tzannes Architecture Urban Planning	20 October 2017

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

2. To insert new conditions nos. A5 and C29 as follows:

Terms of Consent (D316/15/3)

A4. Approval is granted for the following works as shown on drawings numbered CD-A-101 Rev Q, CD-A-201 Rev G, dated 12-10-17, drawn by Smith & Tzannes Architecture Urban Planning, and received by Council on 20 October 2017:

- (a) Replacement of the approved metal palisade fence with stone clad masonry fence;
- (b) Reduction in the width of the approved pedestrian gate and the installation of the letter box, street numbering and security intercom to a metal panel adjacent to the gate; and
- (c) Replacement of the approved masonry fence with palisade fence at the southern end of the front boundary.

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.)

Front Fence

C29. The design of the front fence must be modified as follows:

- (a) The maximum height of the masonry front fence must not exceed 1.8m as measured from the ground level of the Milson Road footpath with a stepped design to follow the fall of the property boundary along Milson Road footpath towards the south. The height of the masonry fence at the southern end must match the height of the palisade fence on the southern side of the front (eastern) property boundary; and
- (b) The stonework on the masonry fence must be sandstone and to match the sandstone on the main dwelling.

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

(Reason: To maintain the character of the conservation area.)

The conditions attached to the original consent for Development Application No. 316/15 by endorsed date of 6 April 2016 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robin Tse**. 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
ROBYN PEARSON
(TEAM LEADER, ASSESSMENTS)