

Podia Pty Limited
Suite 4.07, 55 Miller Street
PYRMONT NSW 2009

D263/16
(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. **263/16** and registered in Council's records as Application No. **263/16/3** relating to the land described as **148-150 Holt Avenue, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 December 2016, has been determined in the following manner:-

Modify Conditions A4, C10, C22, C23, C30, C34, C35, G11 and G15 as follows:

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:

Dwg No.	Revision	Date	Title	Drawn by	Received
DA-0003	C	19/04/17	Site and Roof Plan	PBD Architects	20/06/17
DA-1201	C	19/04/17	Holt Avenue East Elevation	PBD Architects	20/06/17
DA-1202	C	19/04/17	Military Road North Elevation	PBD Architects	20/06/17
DA-1103	C	19/04/17	Ground Floor Plan	PBD Architects	20/06/17

And except as modified by the modifications shown in colour on:

Dwg No.	Revision	Date	Title	Drawn by	Received
DA1101	C	31/07/17	Basement 2 Plan	Giles Tribe Architects	27/09/17
DA1102	C	31/07/17	Basement 1 Plan	Giles Tribe Architects	27/09/17
DA1103	D	-	Ground Floor Plan	Giles Tribe Architects	9/12/17
DA1104	D	-	First Floor Plan	Giles Tribe Architects	9/12/17
DA1105	D	-	Level 3 Plan	Giles Tribe Architects	9/12/17
DA1106	D	-	Roof Plan	Giles Tribe Architects	9/12/17
DA1107	D	-	Level 2 Plan	Giles Tribe Architects	9/12/17
DA1201	D	-	East Elevation	Giles Tribe Architects	9/12/17
DA1202	D	-	North Elevation	Giles Tribe Architects	9/12/17
DA1203	D	-	West Elevation	Giles Tribe Architects	9/12/17
DA1204	D	-	South Elevation	Giles Tribe Architects	9/12/17

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

Bicycle Storage and Parking

C10. The bicycle storage area must accommodate a minimum of 22 resident bicycle spaces, and 2 visitor parking bicycle rail shall be provided. The 2 visitor bicycle may be located alongside the pedestrian entry, behind the letter boxes on the Holt Avenue frontage to the site. The bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. 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, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To promote and provide facilities for alternative forms of transport)

Protection of Trees

C22. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height (m)
3 x Casuarina sp.	146 Holt Avenue, Cremorne	Approximately 20 metres
3 x Melaleuca Trees	North western corner of site, adjacent to Military Road boundary	Approximately 12 metres

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.

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)

Approval for removal of Trees

C23. The following tree(s) are approved for removal in accordance with the development consent:

Tree	Location	Height (m)
All trees within the property with exception of those specified in Condition C22 of this consent	Various locations	Various 4-12 metres

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)

Underground Electricity and Other Services

C30. **Method of Electricity Connection**

The method of connection will be in line with Ausgrid's Electrical Standard(ES)1 'Premise Connection Requirements.

Supply of Electricity

It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not: - The existing network can support the expected electrical load of the development - A substation may be required on-site, either a pad mount kiosk or chamber style and; - site conditions or other issues that may impact on the method of supply. Please direct the developer to Ausgrid's website www.ausgrid.com.au about how to connect to Ausgrid's network.

Proximity to Existing Network Assets
Underground Cables

There are existing underground electricity network assets in Military Road.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safe work Australia–Excavation Code of Practice, and Ausgrid’s NetworkStandardNS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

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 provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground)

BASIX Certificate

C34. 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. (744443M) for the development are fulfilled except where modified by any subsequent valid BASIX Certificate. 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)

Amendments to the Landscape Plan

C35. The landscape plan (*L/01 and L/02 Revision C prepared by A Total Concept Landscape dated 21/09/2017*) must be amended to be consistent with the architectural plans that form part of Condition A4 of this consent

An amended landscape plan 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 amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure consistency with the terms of this consent)

Landscaping

G11. The landscaping shown in the approved landscape plan numbered L01 and L02 revision C prepared by A Total Concept Landscape Architects dated 21.09.2017 and received by Council on 29.09.2017 except where amended by **Condition C35** must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Allocation of Spaces

G15. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

19	Residential
1	Residential – Visitors
4	Accessible

Delete Condition C36 – “Motorcycle Parking”

Add New Conditions C37 and G16 as follows:

Roof top structure

C37 Consent is only permitted to the extension of the awning structure around the north eastern and south eastern sides of the lift core and fire stair entry on the roof of the building.

No consent is permitted for the construction of walls or doors on either the north eastern or south eastern sides of the fire stair and lift lobby on the roof of the building, below the awning structure.

(Reason: To provide weather protection while minimising the size of the enclosed structure above the permissible height control)

Obscure glazing to southern windows

G16 The obscure glazing to the nominated windows on the southern elevation, as indicated on the plans that form part of **Condition A4** of this consent must be installed prior to the issue of the Occupation Certificate.

(Reason: To ensure compliance with the terms of this consent)

The conditions attached to the original consent for Development Application No. 263/16 by endorsed date of 7 December 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.

DATE

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