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23a King George Street
MCMAHONS POINT NSW 2060

D283/15
(SMC1) (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. **283/15** and registered in Council's records as Application No. **283/15/2** relating to the land described as **2 Bay View Street, Lavender Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 4 November 2015, has been determined in the following manner:-

(A) To **insert** the following new conditions:

Development in Accordance with Plans (S96 Amendments)

A6. The development must be carried out in accordance with the drawings and documentation nominated in condition A1, except as amended by following drawings and documentation and endorsed with Council's approval stamp:

Plan No.	Issue	Title	Drawn by	Received
S96_101	A	Basement Floor Plan	Architecture Saville Isaacs	29/8/17
S96_102	A	Lower Ground Floor	Architecture Saville Isaacs	29/8/17
S96_103	A	Ground Floor Plan	Architecture Saville Isaacs	29/8/17
S96_104	B	First Floor Plan	Architecture Saville Isaacs	16/10/17
S96_105	A	Site + Roof Plan	Architecture Saville Isaacs	29/8/17
S96_201	C	South-East Elevation	Architecture Saville Isaacs	13/11/17
S96_202	C	North-East Elevation	Architecture Saville Isaacs	13/11/17
S96_203	A	North-West Elevation	Architecture Saville Isaacs	29/8/17
S96_301	C	Section A	Architecture Saville Isaacs	13/11/17
S96_302	A	Section B	Architecture Saville Isaacs	29/8/17
S96_303	A	Section C	Architecture Saville Isaacs	29/8/17

except as amended by the following conditions.

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

Pool and spa not approved

A7. No approval is granted to any pool or spa or associated balustrades/fencing at lower ground floor level. The pool and spa are to be deleted from the drawings and do not form part of this consent.

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: The design and location of the pool and its surrounds did not form any part of the original consent and would erode the front garden setting and streetscape amenity)

(B) To **modify** the following condition(s) so as to read as follows:

BASIX Certificate

C20. 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. 644245S_04 and 644294S_02 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)

Amendments to Landscape Plan

C21. The landscape plan must be amended to delete the roof deck and spa, and to incorporate those modifications that are approved in this section 96 application. No approval is granted for a pool or spa in the front setback which is to be maintained as soft landscaping, as approved. 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 residential amenity; to maintain front garden setting)

Landscaping

G6. The landscaping shown in the approved landscape plan numbered L100 Revision F prepared by Spirit Level Designs Pty Ltd, dated 28 July 2015 and received by Council on 13 August 2015, excluding any pool, spa and associated deck or fencing, however, incorporating those modifications that are approved in this section 96 application, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure residential amenity)

(C) To **delete** the following condition(s):

A5. Roof Deck & Spa

The conditions attached to the original consent for Development Application No.283/15 by endorsed date of 4 November 2015 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Susanna Cheng**. 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
DAVID HOY
TEAM LEADER (ASSESSMENTS)