

Edward James O'Brien
5 Bromley Avenue
CREMORNE POINT NSW 2090

D299/17
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. **299/17** and registered in Council's records as Application No. **299/17/2** relating to the land described as **5 Bromley Avenue, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 November 2017, has been determined in the following manner: -

1. To modify conditions A1, C1 and C16 as follows:

Development in Accordance with Plans (S96 Amendments)

A1. The development being carried out in accordance with the following drawings numbered DA03B, DA05B, DA07B, DA09B, DA11B, DA12B, DA17B, DA18B, DA19B, DA27B dated 27/9/17, prepared by JB Architecture, and received by Council on 27 September 2017, and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D299/17/2:

Plan No.	Date	Drawn by	Received date
S9603	19/12/17	JB Architecture	20 December 2017
S9604	19/12/17	JB Architecture	20 December 2017
S9605	19/12/17	JB Architecture	20 December 2017
S9606	19/12/17	JB Architecture	20 December 2017
S9607	19/12/17	JB Architecture	20 December 2017
S9608	19/12/17	JB Architecture	20 December 2017
S9610	19/12/17	JB Architecture	20 December 2017

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

Heritage

C1. The following must be applied to the proposed development:

- (a) **Sandstone** – New sandstone to match the existing sandstone blockwork in dimension, texture and colour to ensure the use of material consistent with the traditional palette used in the conservation area. Sandstone with distinct purple striations must not be used.
- (b) **Facebrick Walls** – New brickwork to match the existing brickwork to ensure the use of a materials sympathetic to the subject heritage listed property.
- (c) **Colour Scheme** – The new works must utilize the existing paint colour scheme of the subject property to be sympathetic to this heritage listed item.
- (d) **Internal Wall Details** – The bulkheads and joineries of the existing wall affected by the approved works are to be retained and reused where practicable. The design of new bulkheads joineries on the modified internal wall are to match those on the existing wall.

Plans and specifications which comply with this condition shall be submitted to the Certifying Authority for approval 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 requirements of this condition.

(Reason: Heritage conservation)

BASIX Certificate

C16. Under Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A276241_02 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority 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 the proposed development will meet the Government's requirements for sustainability and statutory requirements.)

2. *To insert new conditions nos. A4 as follows:*

Terms of Consent (D299/17/2)

A4. Approval is granted for the following works as shown on drawings numbered S9603, S9604, S9605, S9606, S9607, S9608, S9610, dated 19/12/17, prepared by JB Architecture, and received by Council on 20 December 2017:

- (a) Partial demolition of the southern internal wall of the ground floor lounge room to create an opening between the lounge room and living room; and
- (b) A new zinc roof over the outdoor patio off the upper level of the approved conservatory.

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.)

The conditions attached to the original consent for Development Application No. 299/17 by endorsed date of 17 November 2017 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)