

Ming Tian Real Property Pty Ltd
3/26 James Ruse Drive
GRANVILLE NSW 2142

D316/13
(GM) (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
(AS AMENDED)**

**Notice to Applicant of Determination of Request
to Modify a Development Consent**

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **316/13** and registered in Council's records as Application No. **316/13/5** relating to the land described as **139-147 West Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 2 April 2014, has been determined in the following manner:-

To delete conditions C1 and C10 and add the following conditions:

Design Modifications

- C1. The following design modifications shall be applied to the proposed apartment building:
- (a) The fixed screening to the western elevation affecting apartments 19, 28, 34, 40 and 45 shall be replaced with sliding screens similar to the sliding screens on the western elevation to the north of the entry.
 - (b) The gate and fence to the vehicle entry shall be setback **a minimum** 1500mm from the front boundary.

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: To improve amenity to apartments, be consistent with streetscape, safety for pedestrians)

The approved arrangement (gate setback at 1.5 metres) does not comply with sightlines required by Australian Standard 2890.1:2004. A modification to the development consent is therefore necessary to facilitate compliance of the construction documentation.

The application further seeks to modify Condition No. G10 of the development consent to enable the completion of landscaping prior to issue of the final Occupation Certificate. The amended consent would be modified to read as follows:

Landscaping

G10. The landscaping shown in the approved landscape plan numbered 001D, prepared by Formed Gardens and received by Council on 7 November 2014, must be completed prior to the issue of any **the Final** Occupation Certificate.

(Reason: To ensure compliance)

The conditions attached to the original consent for Development Application No. 316/13 by endorsed date of 2 April 2014 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 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 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 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 6.3 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 6.6 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 6.6(2)(a) 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 4.55 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 4.55 of the Environmental Planning & Assessment Act.

DATE

Signature on behalf of consent authority
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER