

Design Your Space  
22 Laurel Street  
WILLOUGHBY NSW 2068

D14/15  
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 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. **14/15** and registered in Council's records as Application No. **14/15/2** relating to the land described as **63 Park Avenue, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 April 2016, has been determined in the following manner:-

**Add Conditions A4, C21, C22, C23, G10, G11 and G12 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 clouded in red on the following:

*Drawing Numbered 02 and 03 Issue B drawn by Design Your Space dated 24/01/18 and received by Council on 29 January 2018*

And except as amended by the following conditions and this consent.

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

**Landscaping along northern boundary**

- C21 To maintain acceptable levels of privacy, screen planting must be installed and maintained adjacent to the northern boundary of the site in locations shown in red on the stamped approved plans. The required screen planting must consist of suitable screening species capable of attaining a minimum mature height of 3 metres above finished ground levels. Details of the screen planting required by this condition must be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the details submitted fully satisfy the requirements of this condition.

(Reason: To preserve the privacy of adjoining properties)

### **Privacy**

- C22 No approval is given or implied for the northern first floor lounge room window (W14).

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 an adequate level of privacy is provided to adjoining property located at No. 65 Park Avenue)

### **Southern boundary fencing**

- C23 The timber fence, between the south eastern boundary and the eastern edge of the double garage on the site along Earle Street, must be no higher than 1800mm above the footpath level.

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 consistency with the terms of this consent).

### **Southern boundary fencing**

- G10 Prior to the issue of the occupation certificate, a registered surveyor must provide written certification that the timber fence between the south eastern boundary and the eastern edge of the double garage on the site along Earle Street is constructed wholly within the subject site.

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

### **Landscaping along northern boundary**

- G11 The screen planting along part of the northern boundary of the site required by **Condition C21** of this consent must be completed prior to the issue of any Occupation Certificate. The specified landscape elements must be provided and maintained in accordance with the requirements of this consent at all times.

(Reason: To ensure privacy is maintained)

### **Compliance with Certain conditions**

G12 Prior to the issue of any Occupation Certificate, **Condition C22 ‘Privacy’** must be certified as having been implemented on site and complied with.:

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

### **Modify Condition C3 and C20 as follows:**

#### **Northern and Eastern Boundary Fencing**

C3. No approval is granted or implied for the demolition, removal and/or replacement of the existing boundary fencing along the northern or eastern property boundaries.

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 clarify terms of the consent)

#### **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. A297800 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)

The conditions attached to the original consent for Development Application No. 14/15 by endorsed date of 5 April 2018 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 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.

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DATE

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