

Original signed by: David Hoy Dated: 24/5/2018

Graham Andrew Dreverman
15 Bay View Street
LAVENDER BAY NSW 2060

D267/17
MD1 (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. **267/17** and registered in Council's records as Application No. **267/17/2** relating to the land described as **15 Bay View Street, Lavender Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 December 2017, has been determined in the following manner:-

- (A) To delete Condition (A1), of the consent and insert in lieu thereof the following new condition namely:**

Development in Accordance with Plans (S96 Amendments)

A1B. The development being carried out in accordance with drawings numbered Drawings numbered A01-A13, dated 20.06.17, drawn by Scope Architects, and received by Council on 07.08.17, and endorsed with Council's approval stamp, except as modified by highlighting on

- a. Drawings numbered A02, A06, A07 and A08, rev. no. 2, dated 20.03.2018, drawn by Scope Architects, and received by Council on 29.03.2018, and
- b. Drawings numbered A03, A04, A05 and A09, rev. no. 3, dated 02.05.2018, drawn by Scope Architects, and received by Council on 04.05.2018,

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)

- (B) To modify condition C16 with reference to the new BASIX Certificate, as follows:**

BASIX Certificate

C16. 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. A284078_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)

- (C) To insert the following new conditions:**

Noise from lift (and lift motor)

C18. The use of the lift shall not cause an LAeq(15min) which exceeds the RBL by more than:

- (a) 5dB between the hours of 6:00am and 10:00pm; and,
- (b) 0dB between the hours of 10:00pm and 6:00am on the following day when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To comply with best practice standards for residential acoustic amenity)

Noise Certification

- G5. Prior to issue of the any Occupation Certificate a certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent here-in.

(Reason: To ensure acoustic amenity)

Noise and Vibration Impact

- I3. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

The conditions attached to the original consent for Development Application No. 267/17 by endorsed date of 6 December 2017 still apply.

ADVISINGS

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