

Original signed by: Susanna Cheng Dated: 4/5/2018

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D223/16  
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 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. **223/16** and registered in Council's records as Application No. **223/16/3** relating to the land described as **2 Warung Street, McMahons Point**.

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

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

**Development in Accordance with Plans (S4.55 Amendments)**

A6. 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 in colour and/or clouded on:

Plan No.	Issue	Title	Drawn by	Received
Sect 96 – 001	D	Level 1 Plan	RJP Design	3/4/18
Sect 96 – 002	D	Level 2 Plan	RJP Design	3/4/18
Sect 96 – 003	D	Roof Plan	RJP Design	3/4/18
Sect 96 – 004	D	Ground Floor Plan	RJP Design	3/4/18
Sect 96 – 005	D	Elevations – Sheet 1	RJP Design	3/4/18
Sect 96 – 006	D	Elevations – Sheet 2	RJP Design	3/4/18
Sect 96 – 007	D	Elevations – Sheet 3	RJP Design	3/4/18
Sect 96 – 008	D	Elevations – Sheet 4	RJP Design	3/4/18
Sect 96 – 009	D	Sections – Sheet 1	RJP Design	3/4/18
Sect 96 – 010	B	Sections – Sheet 2	RJP Design	3/4/18

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)

### **Proximity to Existing Network Assets – Overhead Powerlines**

- A7. There are existing overhead electricity network assets in Blues Point Road and Warung Street. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

(Reason: To minimise impacts on essential infrastructure)

### **External Finishes & Materials**

- A8. External finishes and materials must be in accordance with the submitted schedule in drawing Sect 96 – 300 (Rev.B) dated 15/1/18, prepared by RJP Design and received by Council on 3/4/18, unless otherwise modified by Council in writing.

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

### **Disabled Parking Space**

- A9. The development, in particular, the new driveway, shall not impede or otherwise affect the functioning of the disabled parking space located on Blues Point Road to the immediate north of the new driveway.

(Reason: Parking infrastructure)

### **Garage Door Details**

C28. The proposed timber-clad garage doors are to be recessed a minimum of 200mm from the sandstone wall and detailed in a style that is complementary to the period of the Federation dwelling and submitted prior to the Principal Certifying Authority issue of a Construction Certificate.

(Reason: To ensure the use of materials characteristic to the conservation area)

### **Western Eave Line**

C29. The western eave line is to extend a minimum of 500mm towards Blues Point Road and the eastern eave line is to match. Any gutters and associated fixtures are to be located wholly within the site. No approval is granted for any encroachment over/onto public land.

(Reason: To reduce visual bulk of the western wall to Blues Point Road)

### **Roof overhang**

C30. The roof overhang, eave and wall of the upper terrace facing south is to be set back one metre further to the north, and accompanied by a corresponding extension to the north of the western and eastern balustrades to the terrace.

(Reason: To minimise view impact and contribute to Heritage Conservation Area)

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

### **Obtain Driveway Crossing Permit under S.138 Roads Act 1993**

C11. Prior to the issue of the Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works **permit** to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a '*Vehicular Access Application*' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable permit issue. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative. The civil design drawings shall detail **the following infrastructure construction requirements of Council in relation to the consent:**

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The top of the proposed layback wings must be constructed at a minimum distance of 500mm from the existing sign post to the north and the existing power pole to the south of the proposed crossing.
- c) The existing sign post to the north and the existing power pole to the south of the proposed crossing must not be disturbed as a result of the works.
- d) The vehicular laybacks must be set square to the kerb.
- e) The gutter invert levels must match the existing levels and shall not be altered unless agreed to by Council.
- f) The property boundary levels will need to be lowered approximately 100mm to ensure the change in cross-fall grade from the existing concrete road surface, through the new footpath, to the proposed garage slab, does not exceed 12.5% on crest or 15% in sag.
- g) Alignment levels at the boundary have an important impact on the proposed levels for new driveway. The works must not start until confirmation of the new boundary alignment levels have been agreed to by Council. Council has the authority to remove any unauthorised works at the cost of the property owner.
- h) **The Certifying Authority must ensure that the internal property levels at boundary matches council's confirmed boundary levels.**
- i) The stone kerb on Blues Point Road must remain unaltered (except in the location of the new concrete layback) unless agreed to by Council.
- j) The existing concrete road surface must remain unaltered unless agreed to by Council.
- k) The footpath and grass verge on Blues Point Road must be reconstructed and is to be transitioned at least 2 footpath panels on both sides of the vehicular crossing to ensure uniformity on the footpath.
- l) Any twisting of driveway access to ensure vehicles do not scrape must occur wholly within the subject property.
- m) All inspection openings, utility services must be adjusted to match the proposed driveway levels and location.
- n) The design detail has to be provided with **vehicular access application** and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- o) A longitudinal section along the gutter line of Blues Point Road at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels and shall include all changes of grade and levels, **both** existing and proposed.
- p) A longitudinal section along the footpath property boundary in Blues Point Road at a scale of 1:50 is required and shall include all changes of grade and levels, **both** existing and proposed.

- q) The sections must show the calculated clearance to the underside of any overhead structure.
- r) A swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".
- s) Pipelines within the footpath area must be hot dipped galvanized rectangular steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
- t) Any footpath panel on Blues Point Road or Warung Street that is disturbed for the purpose of stormwater connection must be reconstructed as a whole panel.

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic; proper disposal of stormwater)

### **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. A301831 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)

### **Landscaping**

G9. The areas indicated as "Existing Landscaped Area" in plan numbered Sect 96-100 (Rev A) prepared by RJP Design dated 15/1/18 and received by Council on 3/4/18, and at least an additional 4.4m<sup>2</sup> of soft landscaping within the rear courtyard (in place of area identified as "Existing Un-built Upon Area Paving"), must be soft landscaped and completed prior to the issue of any Occupation Certificate.

(Reason: To provide for appropriate landscape amenity)

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

C4. Structural Adequacy (Semi Detached and Terrace Buildings)

The conditions attached to the original consent for Development Application No. 223/16 by endorsed date of 7 June 2017 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 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

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Signature on behalf of consent authority  
DAVID HOY  
TEAM LEADER (ASSESSMENTS)