

Niche Cremorne Pty Ltd
Suite 11
20 Young Street
NEUTRAL BAY NSW 2089

D167/15
(LH) (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. **167/15** and registered in Council's records as Application No. **167/15/4** relating to the land described as **352-354 Military Road, Cremorne**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 24 December 2015, has been determined in the following manner:-

- 1. To delete condition A1 of the consent and insert in lieu thereof the following new condition, namely:**

Development in accordance with Plans

A1. The development being carried out in accordance with drawings numbered

| Plan No | Issue | Title | Drawn by | Dated | Received |
|----------------|--------------|--------------------------------|-----------------|--------------|-----------------|
| DA101 | A | Site location & site analysis | PA Studio | 22/4/2015 | 7/12/2015 |
| DA102 | C | Garage and ground floor levels | PA Studio | 17/11/2015 | 7/12/2015 |
| DA103 | C | First and second floor levels | PA Studio | 17/11/2015 | 7/12/2015 |
| DA104 | D | Third and fourth floor levels | PA Studio | 7/12/2015 | 7/12/2015 |
| DA105 | D | Roof level and roof plan | PA Studio | 7/12/2015 | 7/12/2015 |
| DA106 | D | Section A-A | PA Studio | 7/12/2015 | 7/12/2015 |
| DA107 | D | Section B-B | PA Studio | 7/12/2015 | 7/12/2015 |
| DA108 | D | North and south elevations | PA Studio | 7/12/2015 | 7/12/2015 |
| DA109 | D | East and west elevations | PA Studio | 7/12/2015 | 7/12/2015 |
| DA204 | D | Schedule of finishes | PA Studio | 7/12/2015 | 7/12/2015 |

Except as amended in highlighting on the following plans:

| Plan No | Issue | Title | Drawn by | Dated | Received |
|---------|-------|--------------------------------|-----------|------------|----------|
| DA101 | A | Site location & site analysis | PA Studio | 22/4/2015 | 7/4/2016 |
| DA102 | D | Garage and ground floor levels | PA Studio | 22/12/2015 | 7/4/2016 |
| DA103 | E | First and second floor levels | PA Studio | 7/4/2016 | 7/4/2016 |
| DA104 | E | Third and fourth floor levels | PA Studio | 7/4/2016 | 7/4/2016 |
| DA105 | E | Roof level and roof plan | PA Studio | 7/4/2016 | 7/4/2016 |
| DA106 | E | Section A-A | PA Studio | 7/4/2016 | 7/4/2016 |
| DA107 | E | Section B-B | PA Studio | 7/4/2016 | 7/4/2016 |
| DA108 | E | North and south elevations | PA Studio | 7/4/2016 | 7/4/2016 |
| DA109 | E | East and west elevations | PA Studio | 7/4/2016 | 7/4/2016 |
| DA204 | E | Schedule of finishes | PA Studio | 7/4/2016 | 7/4/2016 |

Except as amended in highlighting on the following plans:

| Plan No | Issue | Title | Drawn by | Dated | Received |
|---------|-------|----------------------------|-----------|-----------|-----------|
| S96.1 | A | Roof plan | PA Studio | 20/3/2018 | 21/3/2018 |
| S96.2 | A | North and south elevations | PA Studio | 20/3/2018 | 21/3/2018 |

Except where amended by the following conditions of this consent.

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

2. To amend condition G16 of the development consent as follows:

Height

G16. Upon completion of the works and prior to the issue of any Occupation Certificate, the RL of the development must be surveyed and certificated by an appropriately qualified and practising surveyor as compliant as follows:

- The height of the roof level shall have a maximum RL100.300;
- The height of the lift overrun shall have a maximum RL104.400.

This survey and certification must be submitted to the Certifying Authority with the application for an Occupation Certificate and a copy provided to Council (if it is not the Certifying Authority).

(Reason: To ensure compliance with the terms of this development consent)

3. To add new condition A5 of the development consent as follows:

No approval for safety railings to surround non-trafficable roof elements

A5. Modification DA167/15/4 relates only to the increase in building height of the approved lift overrun, shown clouded on the approved drawings. No other modifications are approved as part of this modification application.

The roof 'safety railings' to surround the non-trafficable parts of the roof are not approved as part of this consent. Notwithstanding this, the applicant shall ensure that all required safety provisions are provided for the purpose of roof maintenance. Should any new elements be required that need development consent, further approval should be sought.

The Certifying Authority must ensure that the building plans and specifications, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To clarify the terms of this development consent)

The conditions attached to the original consent for Development Application No. 167/15 by endorsed date of 24 December 2015 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
LARA HUCKSTEPP
EXECUTIVE PLANNER