

Smith & Tzannes Architecture  
M01/147 McEvoy Street  
ALEXANDRIA NSW 2015

D316/15  
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 316/15/6 – APPROVAL**

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**Development Consent Number:** 316/15/6

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**Land to which this applies:** 12A Milson Road, Cremorne Point  
Lot No.: 34, DP: 4389

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**Applicant:** Smith & Tzannes Architects

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**Proposal:** Section 4.55(2) modifications to DA316/15 for a new detached dwelling including changes the side (north-western) boundary wall and the planter beds adjacent to the approved Level 1 courtyard.

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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. **316/15** and registered in Council's records as Application No. **316/15/6** relating to the land described as **12A Milson Road, Cremorne Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 6 April 2016, has been determined in the following manner: -

**1. To modify Condition A1 as follows:**

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

- A1. The development being carried out in accordance with the following drawings numbered DA-A-100 Rev B, DA-A-101 Rev C, DA-A-103 Rev C, DA-A-200 Rev C, DA-A-201 Rev C, DA-A-202 Rev C, DA-A-203 Rev C, DA-A-204 Rev C, all dated 17-11-15 and DA-A-205 Rev A dated 04-12-15, DA29B, all drawn by Smith & Tzannes Architecture Urban Planning, and received by Council on 17 December 2015 and Drawings numbered DA-A-102 Rev D, dated 18.02.16, drawn by Smith & Tzannes Architecture Urban Planning, and received by Council on 18 February 2016, and endorsed with Council's approval stamp, except as modified by highlighting on the following drawings for D316/15/2:

<b>Plan No.</b>	<b>Rev.</b>	<b>Date</b>	<b>Drawn by</b>	<b>Date received</b>
DA-A-100	C	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-101	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-102	D	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-103	F	17-10-16	Smith & Tzannes Architecture Urban Planning	17 October 2016
DA-A-200	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-201	D	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-202	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-203	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-204	E	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016
DA-A-205	B	03-08-16	Smith & Tzannes Architecture Urban Planning	5 August 2016

except as modified by highlighting on the following drawings for D316/15/3:

<b>Plan No.</b>	<b>Rev.</b>	<b>Date</b>	<b>Drawn by</b>	<b>Date received</b>
CD-A-101	Q	12-10-17	Smith & Tzannes Architecture Urban Planning	20 October 2017
CD-A-201	G	12-10-17	Smith & Tzannes Architecture Urban Planning	20 October 2017

except as modified by highlighting on the following drawings for D316/15/4:

<b>Plan No.</b>	<b>Rev.</b>	<b>Date</b>	<b>Drawn by</b>	<b>Date received</b>
DA-A-010	F	08-03-2018	Smith & Tzannes Architecture Urban Planning	21 March 2018
DA-A-102	F	08-03-2018	Smith & Tzannes Architecture Urban Planning	21 March 2018
DA-A-205	C	08-03-2018	Smith & Tzannes Architecture Urban Planning	21 March 2018

except as modified by highlighting on the following drawings for D316/15/6:

<b>Plan No.</b>	<b>Rev.</b>	<b>Date</b>	<b>Drawn by</b>	<b>Date received</b>
S4.55-A-02	A	14 February 2019	Smith & Tzannes Architecture Urban Planning	18 February 2019
S4.55-A-03	A	14 February 2019	Smith & Tzannes Architecture Urban Planning	18 February 2019
S4.55-A-04	A	14 February 2019	Smith & Tzannes Architecture Urban Planning	18 February 2019
S4.55-A-05	B	19 March 2019	Smith & Tzannes Architecture Urban Planning	19 March 2019
S4.55-A-06	A	14 February 2019	Smith & Tzannes Architecture Urban Planning	18 February 2019
S4.55-A-07	A	14 February 2019	Smith & Tzannes Architecture Urban Planning	18 February 2019

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

**2. To insert new condition no. A7 as follows:**

**Terms of Consent (D316/15/6)**

- A6. Approval is granted for the following works as shown on S4.55-A-02 Rev A, S4.55-A-03 Rev A, S4.55-A-04 Rev A, S4.55-A-06 Rev A, S4.55-A-07 Rev A, dated 14 February 2019, drawn by Smith & Tzannes Architecture Urban Planning, and received by Council on 18 February 2019 and drawing numbered S4.55-A-05 Rev B, dated 19 March 2019, drawn by Smith & Tzannes Architecture Urban Planning, and received by Council on 19 March 2019
- (a) Modifications to the profile of the retaining wall along the side (north-western) property boundary with a maximum height of 1.8m;
  - (b) Modifications to the planter bed between the Level 1 courtyard and the side (north-western) property boundary to match the profile of the retaining wall as modified under item (a);
  - (c) Planting of '*Eleocharpus eumundii*' on the modified planter beds; and
  - (d) Installation of 1m high metal balustrade along the edge of the Level 1 courtyard between the courtyard and the planter bed.

No approval is given or implied in this consent for any other works, both internal and external, within the subject property.

(Reason: To ensure the terms of the consent are clear)

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The proposed modifications satisfy the provisions of Section 4.55(2) in that the proposal is considered to be substantially the same development as that which was originally approved by Council.

The proposed modifications would have no material impacts in terms of height, bulk and scale of the approved development. The height of the modified boundary wall at 1.8m would not be higher than a standard side boundary fence. In addition, there would be no change to the approved site coverage, unbuilt upon area and landscaped area within the subject site.

**Reason for approval:**

The proposed modifications would not cause material impacts on the amenity of the adjoining properties in terms of the loss of privacy due to the proposed screen planting on the stepped planter beds between the approved courtyard within the subject site and the adjoining property. The proposed modifications would have no adverse impacts on the significance and character of the conservation area.

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The proposal was found to be acceptable in the site circumstances and is recommended that the subject Section 4.55(2) application be approved with modifications to the relevant conditions.

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**How community views were taken into account:**

The adjoining properties and the Cremorne Point Precinct were notified about the proposed development for the period between 1 and 15 March 2019. The notification resulted in two (2) submissions. The issues raised in the submission were addressed in the assessment of the application.

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The conditions attached to the original consent for Development Application No. 316/15 by endorsed date of 6 April 2016 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robin Tse**. 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.
- (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 Certifier 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.

**Endorsed for and on behalf of North Sydney Council**

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
**TEAM LEADER ASSESSMENTS**