

Georgette Tawaf
6 Lower Brooks Street
LINLEY POINT NSW 2066

D337/13
(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 96 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **337/13** and registered in Council's records as Application No. **337/13/2** relating to the land described as **3 Raymond Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 29 April 2014, has been determined in the following manner:-

Add conditions A4 and C32 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 the LEC approval stamp, except as modified by the modifications shown in colour on:

Drawing No.	Revision	Title	Drawn by	Dated
1307-02-00-01	H	Site plan	Ian Moore Architects	21/04/16
1307-02-01-01	R	Level 00 plan	Ian Moore Architects	21/04/16
1307-02-01-02	R	Level 01 plan	Ian Moore Architects	21/04/16
1307-02-01-03	R	Level 02 plan	Ian Moore Architects	21/04/16
1307-02-01-04	R	Level 03 plan	Ian Moore Architects	21/04/16
1307-02-01-05	R	Roof plan	Ian Moore Architects	21/04/16
1307-02-02-01	K	Street – south elevation	Ian Moore Architects	21/04/16
1307-02-02-02	K	South east elevation	Ian Moore Architects	21/04/16
1307-02-02-03	K	West	Ian Moore	21/04/16

		elevation	Architects	
1307-02-02-04	L	North elevation	Ian Moore Architects	21/04/16
1307-02-02-05	K	East elevation	Ian Moore Architects	21/04/16
1307-02-03-01	J	Section 01	Ian Moore Architects	21/04/16
1307-02-03-02	J	Section 02	Ian Moore Architects	21/04/16
1307-02-03-03	J	Section 03	Ian Moore Architects	21/04/16
1307-02-03-04	J	Section 04	Ian Moore Architects	21/04/16
1307-02-03-05	J	Section 05	Ian Moore Architects	21/04/16
1307-02-03-06	J	Section 06	Ian Moore Architects	21/04/16
1307-02-03-07	J	Section 07	Ian Moore Architects	21/04/16
1307-02-03-08	J	Section 08	Ian Moore Architects	21/04/16
1307-02-03-09	J	Section 09	Ian Moore Architects	21/04/16
1307-02-03-10	J	Section 10	Ian Moore Architects	21/04/16
1307-02-03-10	C	Section 11	Ian Moore Architects	21/04/16
MB_3AR_00	E	Cover Page	Myles Baldwin Design	20/04/16
MB_3AR_01	G	Landscape Plan	Myles Baldwin Design	20/04/16
MB_3AR_02	A	Landscape Plan – Level 1	Myles Baldwin Design	20/04/16

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)

C32 Landscape treatment of retaining walls

The architectural plans that form part of Condition A4 of this consent are to be amended to remove the *Ficus pumila* (Climbing Fig) plantings as indicated on the southern and western retaining walls.

Amended drawings 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 amended elevations and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To retain the integrity of the heritage-significant sandstone blockwork.)

Delete Conditions C1, C20 and E15 as follows:

C1. Height of building

Prior to the issue of the Construction Certificate, the architectural plans that formed part of Condition A1 of this consent must be amended as follows:

- a. The top of the parapet wall around the perimeter of the building (excluding plant) must be lowered by 400mm to have a maximum RL77.65; and
- b. Top of the parapet wall around the perimeter of the plant must be lowered by 400mm to have a maximum RL78.55

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 compliance with the terms of this development consent)

C20 Tree Bond for Public Trees

Prior to the issue of any construction certificate, security in the sum of \$3000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security must be provided by way of:

- a deposit with the Council; or
- a guarantee satisfactory to Council (such as a satisfactory bank guarantee).

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

Schedule

Bottlebrush Tree growing outside the property

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

E15 No Removal of Trees on Public Property

No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Modify Conditions C4, C5, C21, C24, C28, C30, C31, E2, G7, G10 and G13 as follows:

C4 Dilapidation Survey Private Property (Neighbouring Buildings)

A photographic survey and dilapidation report of adjoining properties No's 1 and 3 Anderson Street and No.5 Raymond Road, Neutral Bay detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

C5 Structural Adequacy of Adjoining Properties – Excavation Works

A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties No's 1 and 3 Anderson Street and No.5 Raymond Road, Neutral Bay, which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

C21 Approval for removal of Trees

The following tree(s) are approved for removal in accordance with the development consent:

Tree	Location	Height (m)
Lillipilli	Growing at the front of the property	7 metres
Kentia Palm	Growing on Council property outside the property	7 metres
Bottlebrush tree	Growing on Council's verge in front of the site	5 metres

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

C24 Location of Plant

The air conditioning plant is to be located within the basement of the building and is not to be located on balconies or the roof. The three (3) hot water units may be attached to the inside wall of the eastern parapet wall in the location indicated on the plans that form part of Condition A4 of this consent. The top of the hot water units must sit below the top of the parapet wall (RL78.55). 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

C28 Underground Electricity and Other Services

Prior to the issue of the issue of the Construction Certificate, the developer must confirm with Ausgrid whether the power for the proposed building will use overhead connection or underground connection. If overhead connection is used, then the overhead service mains must provide adequate height clearance from the public walkway adjacent to the site.

If the existing overhead mains in the walkway are not undergrounded in conjunction with the development, then the developer should ensure that the clearance requirements in the WorkCover NSW Code of Practice - "Work Near Overhead Power Lines" 2006 - should be complied with during construction works. The relevant mains are to be regarded as "bare active" mains with a voltage less than 1000V.

The supply arrangements to the development will be confirmed upon receipt of a formal Connection Application from the developer.

All necessary easements must be established pursuant to the provisions of Section 88B of the Conveyancing Act 1919, as amended, and, in the case of Community Land Development, the lodgement of a suitable Management Statement and corresponding working plan in accordance with Section 36 of the Community Land Development Act, 1989. It is also subject to Ausgrid's "Requirements for Electricity Supply to Developments" as detailed in publication ES 10, on the Ausgrid website.

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 satisfy the requirements of Ausgrid)

C30 Security Deposit/ Guarantee Schedule

All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Footpath Damage Bond	\$4,000.00
Drainage Construction Bond	\$1,000.00
Engineering Construction Bond	\$9,500.00
TOTAL BONDS	\$14,500.00

(Reason: Compliance with the development consent)

C31 BASIX Certificate

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. 495271M_03 dated 14 June 2016 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)

E2 Reuse of sandstone

The sandstone blocks from the original southern and western retaining walls are to be salvaged and re-used in the same location. New stone work is to match the existing block size and colour.

(Reason: To retain the heritage contribution of the retaining wall to the original lot of the state heritage-listed property at 3 Anderson St.)

G7 Height

Upon completion of the works and prior to the issue of any Occupation Certificate the RL of the development measured at both the:

- a) Top of the parapet wall around the perimeter of the building (excluding plant); and
- b) Top of the parapet wall around the perimeter of the plant

The heights for both (a) and (b) must be surveyed and certified by an appropriately qualified and practising surveyor as compliant with the maximum approved levels in accordance with **Condition A4** of this consent. 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)

G10 Landscaping

The landscaping shown on the approved Landscape Plans that form part of Condition A4 of this consent must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance.)

G13 Required Tree Planting

On completion of works and prior to the issue of an Occupation Certificate trees in accordance with the schedule hereunder must be planted in Council’s nature strip/footpath: -

Schedule

Tree Species	Location	Pot Size
Bottlebrush tree	On Council’s verge in front of the subject site	75 litre

The installation of such trees, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure that replacement plantings are provide to enhance community landscaped amenity and cultural assets)

DATE

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