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Level 13, 1 Castlereagh Street
SYDNEY NSW 2000

D156/15
GM(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. **156/15** and registered in Council's records as Application No. **156/15/4** relating to the land described as **2 East Lane, Crows Nest (previously known as 319-321 Pacific Highway)**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 October 2015, has been determined in the following manner:-

To delete condition G10 and G15 and insert the following new conditions, namely:

Certification of Tree Condition

G10. Prior to the issue of a **final** Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below: -

Hills Fig growing in the North West Corner of the property

The report must detail the condition and health of the nominated tree upon completion of the works, and shall certify that the tree has not been significantly damaged during the works on the site, and has reasonable prospects for survival.

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

Landscaping

G15. The landscaping shown in the approved landscape plans numbered LP 01, 02, 03 prepared by Site Design Studios received by Council on 26 August 2015 must be completed prior to the issue of a **final** Occupation Certificate **or within 6 months of this approval (whichever is the sooner)**.

Note:

- A) No planting shall take place within 300mm of the base of the Hills Fig growing in the north western corner of the property.
- B) The proposed bench shall be built such that no part of the structure is any closer than 500mm from the trunk of the Hills Fig growing in the north western corner of the property.
- C) That all paved areas from the grated drain towards the Hills Fig growing in the north western corner of the property shall be free of mortar and be placed on compacted road base and sand.

(Reason: To ensure compliance and protection of the Hills Fig)

The conditions attached to the original consent for Development Application No. 156/15 by endorsed date of 7 October 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 97 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 96AB, an applicant is able to request Council to review its determination. An application for a review under Section 96AB 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 81A(2) (a) 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 81A(2)(b1)(i) 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 81A(2)(c) 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 96 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 96 of the Environmental Planning & Assessment Act.

DATE

Signature on behalf of consent authority
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER