

Kristy Brown, Building Surveyor
8am to 5.30pm Mon-Thurs, 8am to 5pm Fri
Phone 9970 1143

COPY

5 February 2016

NOT0020/16

ANGLICAN RETIREMENT VILLAGES DIOCESE OF SYDNEY
PO BOX 284
CASTLE HILL NSW 1765

ORDER NO 19 UNDER SECTION 121B
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (as amended)
PREMISES: Lots 1, 2, 3, 4 and 5 DP 1161389, 6-14 MACPHERSON STREET WARRIEWOOD
NSW 2102

Pittwater Council hereby orders you ANGLICAN RETIREMENT VILLAGES DIOCESE OF SYDNEY, being the owners of the subject premises, to comply with the terms set out in Schedule 1 to this Order within the times specified in the schedule below.

The reasons why this Order is given to you are:

Council is in receipt of a Section 96 modification application N0267/13/S96/2, which has not yet been determined. As part of the assessment of this application, Council's Executive Planning Officer went to the site and noted that there were a number of significant changes identified in the drawings accompanying the current application that are not nominated as changes in the application by the applicant.

As a result, on 2 February 2016, Council's Building Surveyor, Executive Planner and Brendan Bennett of City Plan Services P/L, who is the Principal Certifying Authority for the development, carried out an inspection of the development. The inspection confirmed non-compliances with the as built structures and the conditions of Development Consent N0267/13/S96/1, the plans associated with Development Consent N0267/13/S96/1 and the plans associated with Construction Certificate Nos 142440/1 and 142440/2 issued by City Plan Services P/L. The non-compliances are outlined below.

1. Polycarbonate panels in roofs

The following drawing No's forming part of Development Consent N0267/13/S96/1 show polycarbonate roof sheeting to be provided to the private open space of 45 of the 59 dwellings.

- 003, issue G, dated 19 December 2014,
- D101, issue G, dated 9 March 2015,
- D1 101, issue G, dated 9 March 2015,
- C101, issue G, dated 9 March 2015,
- C102, issue F, dated 18 December 2014,
- D102, issue F, dated 18 December 2014,
- D1 102, issue F, dated 18 December 2014,
- C103, issue F, dated 15 January 2015,

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- D103, issue F, dated 15 January 2015,
- D1 103, issue F, dated 15 January 2015; and
- Drawing 02, issue A, dated 12 February 2014, all prepared by Environa Studio.

The plans associated with the Construction Certificate Nos 142440/1 and 142440/2 issued by City Plan Services P/L also show the polycarbonate roof sheets.

The inspection of the 33 completed dwellings confirmed the polycarbonate roof sheets have not been provided to the private open space of the dwellings, where required.

Further condition C24 of N0267/13/S96/1 requires dwellings 25, 26,27,28,29, 30 and 32 to have the polycarbonate roof sheet to an increased depth of 2m which has not been provided.

2. Internal openings between the garage and dwellings

The following drawing No's forming part of Development Consent N0267/13/S96/1 show a 3m clear internal opening between the garages and the dwellings. 55 of the 59 dwellings are required to have this opening.

- D101, issue G dated 9 March 2015,
- D1 101, issue G, dated 9 March 2015,
- C101, issue G, dated 9 March 2015, and
- The adapted (additional information) design on drawings 01-06, issue A dated 12 February 2014

all prepared by Environa Studio.

The inspection of the 33 completed dwellings confirmed that the 3m internal openings have not been provided, where required. The inspection further confirmed that the dwellings currently under construction did not have the provision for the 3m wide openings.

Condition C25 of N0267/13/S96/1 required (prior to the issue of the Construction Certificate) amended architectural drawings to reflect the adapted (additional information) design on drawings 01-06, issue A dated 12 February 2014, prepared by Environa Studio. The Condition further required the plans to be sent to Council 7 days prior to the Construction Certificate being issued, however this did not occur.

The plans issued with Construction Certificate 142440/1 and 142440/2 by City Plan Services P/L sent to Council on 4 May 2015 and 21 May 2015, do not show the 3m wide opening, rather a notation on the plans states "provide lintel for future alteration to sliding doors. 3080mm stud opening".

3. Design and layout of dwellings

A number of dwellings located towards Macpherson Street have been constructed or are in the process of being constructed with layouts differing from the approved plans forming part of N0267/13/S96/1 and Construction Certificate Nos 142440/1 and 142440/2, issued by City Plan Services P/L. Bedrooms, areas of private open space and service areas are in differing locations, which have not been assessed under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004.

The plans accompanying the undetermined modification application (N0267/13/S96/2) show the layout of the following dwellings differ from the original, modified approved plans and Construction Certificate plans and nominate different dwelling types as outlined below. It is noted that the plans forming part of the original, modified Development Consent (N0267/13/S96/1) and Construction Certificate relate only to dwelling types A, B, C, C1, D, D1 and S2.

- 38 (Type F)
- 39 (Type G)
- 41 (Type FR)
- 42 (Type GR)
- 44 (Type Gi)
- 45 (Type G)
- 47 (Type FR)
- 48 (Type GR)
- 50 (Type E)
- 51 (Type G)
- 53 (Type FR)
- 54 (Type ER)

4. Bowling Green

Drawing No LP – 3.1 and LP – 1.8 revision 03, prepared by John Lock & Associates Landscape Architecture, dated 19 November 2013, forming part of N0267/13/S96/1 shows the area between the bowling green and the fire trail to be battered with indigenous turf. The inspection confirmed the bowling green has been constructed with retaining walls and is surrounded by balustrades/fencing and overhead awnings, that are not permitted within the outer creekline corridor. This is further confirmed in Condition B5 of Development Consent N0267/13/S96/1 which states: *"The riparian corridor is to be maintained clear of physical obstructions including fencing which may cause the blockage of flow paths and restrict wildlife migration"*.

Given the above mentioned non-compliances with the development this Order is issued to cease any further works associated with the dwellings currently under construction.

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Schedule 1

1. Forthwith, cease all building works associated with the dwellings currently under construction being dwellings numbers: 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59 as shown on drawing No 003, issue G, dated 19 December 2014 (copy attached).

Failure to comply

Failure to comply with this Order may result in Council instigating legal action under the provisions of the Environmental Planning and Assessment Act, 1979 (as amended), or the serving of penalty notices (on-the-spot fines) under the provisions of the Environmental Planning & Assessment Act Regulations.

Right of appeal

You are advised that you have a right of appeal to the Land and Environment Court against:

1. The Order.
2. A specified part of the Order.

An appeal to the Court must be lodged within twenty eight (28) days of the date of service of this Order.

Darren Greenow
PRINCIPAL DEVELOPMENT COMPLIANCE OFFICER

cc **Mr Brendan Bennett**
City Plan Services Pty Ltd
brendanb@cityplan.com.au

Kristy Brown, Building Surveyor
8am to 5.30pm Mon-Thurs, 8am to 5pm Fri
Phone 9970 1143

3 March 2016

NOT0020/16
(MODIFIED)

ANGLICAN RETIREMENT VILLAGES DIOCESE OF SYDNEY
PO BOX 284
CASTLE HILL NSW 1765

ORDER NO 19 UNDER SECTION 121B
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (as amended)
PREMISES: Lots 1, 2, 3, 4 and 5 DP 1161389, 6-14 MACPHERSON STREET WARRIEWOOD
NSW 2102

Pittwater Council hereby orders you ANGLICAN RETIREMENT VILLAGES DIOCESE OF SYDNEY, being the owners of the subject premises, to comply with the terms set out in Schedule 1 to this Order within the times specified in the schedule below.

The reasons why this Order is given to you are:

This modified Order has been issued under the provisions of Section 121ZF of the Act.

As part of the assessment of the recently issued s96 modification application N0267/13/S96/2, Council's Executive Planning Officer went to the site and noted that there were a number of significant changes identified in the drawings accompanying the current application that are not nominated as changes in the application by the applicant.

As a result, on 2 February 2016, Council's Building Surveyor, Executive Planner and Brendan Bennett of City Plan Services P/L, who is the Principal Certifying Authority for the development, carried out an inspection of the development. The inspection confirmed non-compliances with the as built structures and the conditions of Development Consent N0267/13/S96/1, the plans associated with Development Consent N0267/13/S96/1 and the plans associated with Construction Certificate Nos 142440/1 and 142440/2 issued by City Plan Services P/L. The non-compliances are outlined below.

1. Polycarbonate panels in roofs

The following drawing No's forming part of Development Consent N0267/13/S96/1 show polycarbonate roof sheeting to be provided to the private open space of 45 of the 59 dwellings.

- 003, issue G, dated 19 December 2014,
- D101, issue G, dated 9 March 2015,
- D1 101, issue G, dated 9 March 2015,
- C101, issue G, dated 9 March 2015,
- C102, issue F, dated 18 December 2014,
- D102, issue F, dated 18 December 2014,
- D1 102, issue F, dated 18 December 2014,
- C103, issue F, dated 15 January 2015,

- D103, issue F, dated 15 January 2015,
- D1 103, issue F, dated 15 January 2015; and
- Drawing 02, issue A, dated 12 February 2014, all prepared by Environa Studio.

The plans associated with the Construction Certificate Nos 142440/1 and 142440/2 issued by City Plan Services P/L also show the polycarbonate roof sheets.

The inspection of the 33 completed dwellings confirmed the polycarbonate roof sheets have not been provided to the private open space of the dwellings, where required.

Further condition C24 of N0267/13/S96/1 requires dwellings 25, 26,27,28,29, 30 and 32 to have the polycarbonate roof sheet to an increased depth of 2m which has not been provided.

A representation to Order NOT0020/16 received from Norton Rose Fulbright, dated 21 February 2016, confirms the following applications are proposed to be lodged with Council:

- a) A Building Certificate application pursuant to s149E of the EP & A Act, for dwellings 34, 35, 36, 38, 39, 41, 42, 44 and 45 in Stage 5 which have already been constructed with the 'alternative design' (being proprietary framed glass skylights) in lieu of the polycarbonate roof sheets; and
- b) A modification application pursuant to s96 of the EP & A Act, to amend condition B25 and the approved plans in an attempt to authorise an alternative design on dwellings 47, 48, 50, 51, 53, 54,56, 57, 58 and 59 in Stage 5.

An undertaking has been provided by Anglican Retirement Villages Diocese of Sydney that an interim roofing solution in the form of a solid roof sheeting (**Interim Roofing Solution**) will be carried out on dwellings 56, 57, 58, and 59, to enable construction to continue whilst the modification application is assessed by Council.

2. Design and layout of dwellings

A number of dwellings located towards Macpherson Street have been constructed or are in the process of being constructed with layouts differing from the approved plans forming part of N0267/13/S96/1 and Construction Certificate Nos 142440/1 and 142440/2, issued by City Plan Services P/L. Bedrooms, areas of private open space and service areas are in differing locations, which have not been assessed under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004.

The plans accompanying the undetermined modification application (N0267/13/S96/2) show the layout of the following dwellings differ from the original, modified approved plans and Construction Certificate plans and nominate different dwelling types as outlined below. It is noted that the plans forming part of the original, modified Development Consent (N0267/13/S96/1) and Construction Certificate relate only to dwelling types A, B, C, C1, D, D1 and S2.

- 38 (Type F)
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- 55 (A-sR)

A representation to Order NOT0020/16 received from Norton Rose Fulbright, dated 21 February 2016, confirms the following applications are proposed to be lodged with Council:

- a) A Building Certificate application pursuant to s149E of the EP & A Act in respect to dwellings where layout changes have already been undertaken; and
- b) A modification application pursuant to s96 of the EP & A Act in respect to those dwellings with layout changes but not yet constructed.

Anglican Retirement Villages Diocese Of Sydney have provided an undertaking to not continue any building works on the dwellings 38, 39, 41, 42, 44, 45, 47, 48, 50, 51, 53 and 54, until such time as the layout change has been regularised or some other agreement has been reached with Council to enable such work to recommence.

Schedule 1

1. Forthwith, cease all building works associated with the following dwellings currently under construction: 38, 39, 41, 42, 44, 45, 47, 48, 50, 51, 53 and 54.

Failure to comply

Failure to comply with this Order may result in Council instigating legal action under the provisions of the Environmental Planning and Assessment Act, 1979 (as amended), or the serving of penalty notices (on-the-spot fines) under the provisions of the Environmental Planning & Assessment Act Regulations.

Right of appeal

You are advised that you have a right of appeal to the Land and Environment Court against:

1. The Order.
2. A specified part of the Order.

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Darren Greenow
PRINCIPAL DEVELOPMENT COMPLIANCE OFFICER

cc **Mr Brendan Bennett**
City Plan Services Pty Ltd
brendanb@cityplan.com.au

MONA VALE CUSTOMER SERVICE CENTRE
Village Park, 1 Park Street, Mona Vale

AVALON CUSTOMER SERVICE CENTRE
59A Old Barrenjoey Road, Avalon

PITTWATER COUNCIL
PO Box 882, Mona Vale, NSW 1660, DX9018, Mona Vale
02 9970 1111
pittwater_council@pittwater.nsw.gov.au
www.pittwater.nsw.gov.au

Kristy Brown, Building Surveyor
8am to 5.30pm Mon-Thurs, 8am to 5pm Fri
Phone 9970 1143

3 March 2016

NOT0020/16
(MODIFIED)

PBS BUILDING (NSW) PTY LTD
UNIT 18/11-21 UNDERWOOD ROAD
HOMEBUSH NSW 2140

And via email: roi.ciftci@pbsbuilding.com.au

ORDER NO 19 UNDER SECTION 121B
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (as amended)
PREMISES: Lots 1, 2, 3, 4 and 5 DP 1161389, 6-14 MACPHERSON STREET WARRIEWOOD
NSW 2102

Pittwater Council hereby orders you PBS BUILDING (NSW) PTY LTD, being the Principal Contractor of the building works at subject premises, to comply with the terms set out in Schedule 1 to this Order within the times specified in the schedule below.

The reasons why this Order is given to you are:

This modified Order has been issued under the provisions of Section 121ZF of the Act.

As part of the assessment of the recently issued s96 modification application N0267/13/S96/2, Council's Executive Planning Officer went to the site and noted that there were a number of significant changes identified in the drawings accompanying the current application that are not nominated as changes in the application by the applicant.

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