



## NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

**Development Application No:** DA 2006/755

### DEVELOPMENT APPLICATION DETAILS

**Applicant Name:** John Miskovich

**Applicant Address:** C/- Architectural Aspects Unit 16 22 Hudson Avenue  
Castle Hill NSW 2154

**Land to be developed (Address):** Lot 3, DP 1087063, 30B Rowe Street Harbord

**Proposed Development:** Construction of new two storey dwelling and associated landscape works.

### DETERMINATION

**Made on (Date):** 24<sup>th</sup> November 2006

**Consent to operate from (Date):** 24<sup>th</sup> November 2006

**Consent to lapse on (Date):** 24<sup>th</sup> November 2009

### Details of Conditions

*The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.*

#### **NOTE:**

*If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.*

*Pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, Council has varied the provisions of Section 95(1) and advise that the consent will lapse 3 years from the date upon which the consent operates.*

*Section 95A of the Environmental Planning and Assessment Act 1979, allows for an extension of 1 year to the period in which the consent will lapse, except for complying development. Such an application must be made in accordance with Clause 114 of the Environmental Planning and Assessment Regulation 2000.*

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## GENERAL CONDITIONS

### CONDITIONS THAT IDENTIFY APPROVED PLANS

#### 1. Approved Plans And Supporting Documentation

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Drawing Number	Dated
C - 820/02 prepared by Pavel Kozarovski	18/02/2006
0559 - 01/05 Issue B Drawn by Aspect P/L	20/12/05
0559 - 02/05 Issue A Drawn by Aspect P/L	21/12/05
0559 - 03/05 Issue A Drawn by Aspect P/L	21/12/05

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

**Note:** Further information on Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

**Reason:** *To ensure the work is carried out in accordance with the determination of Council and approved plans. [A1 (1)]*

#### 2. Plans on Site

A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

**Reason:** *To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance. [A2]*

### CONDITIONS THAT REQUIRE SUBSIDIARY MATTERS TO BE COMPLETED PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

#### 3. Kerb Security Bond

A bond of \$825.00 shall be deposited with Council and inspection fees paid, prior to the



issue of any construction certificate, against the potential for damage to Council's footpath and road reserve infrastructure during the construction process. (See Schedule)

**Reason:** *To ensure appropriate security is in place for the protection or repair of Public Infrastructure. [C16]*

#### 4. Protection of Footpaths and Roadways

The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.

**Reason:** *Protection of footpath and roadways. [C22]*

#### 5. Roofing Materials - Reflectivity

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. The metal roof shall not be of light colours such as off white, cream, silver or light grey colours. Details being submitted with the Construction Certificate.

**Reason:** *To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development. [C55]*

#### 6. Security Bond Schedule

All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of the required Construction Certificate:

<b>SECURITY BOND &amp; FEE SCHEDULE</b>	
30B Rowe Street, HARBORD (Property address)	
DEVELOPMENT APPLICATION NUMBER <b>2006/0755DA</b>	
<b>SECURITY BONDS</b>	<b>AMOUNT (\$)</b>
Tree Damage Bond (within the site)	
Street Tree Bond (on Council Property)	
Builders Road/Kerb Security Bond	\$825.00
Engineering Construction Bond · General Works · Road Pavement · Stormwater · Kerb & Gutter, Footpath	
Others	
<b>TOTAL BONDS</b>	<b>\$825.00</b>
<b>FEES</b>	
<b>Kerb Security Inspection Fee</b>	\$200.00
Section 94 contribution	\$2500.00
Long Service Levy	\$87.00
Others	
<b>TOTAL FEES</b>	<b>\$2787.00</b>



Progress Inspections if Councils is the PCA	\$1650.00
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**Reason:** *Compliance with the development consent. [C71]*

## 7. BASIX Certification

Prior to the issue of the Construction Certificate, certification is to be provided by the architect/design consultant to the Council / Accredited Certifier stating that the plans and specifications for the development meet the commitments of the BASIX Certificate lodged with the Development Application.

**Reason:** *To ensure the development complies with the requirements of the SEPP (Building sustainability index: BASIX 2004). [C81]*

## 8. S94A Contribution

The payment of \$2500.00 as a 94A levy prior to the approval/release of the Construction Certificate.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan 2006. It is current at the time of issue of this Consent. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

The basis for the contributions is as follows:

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of	\$	250,000.00	
Contribution - all parts Warringah (except Dee Why)	Levy Rate	Contribution for DA Consent (\$)	Office Use
S94A Levy	0.95%	\$2,375	6923
S94A Planning and Administration	0.05%	\$125	6924
<b>TOTAL</b>	<b>1%</b>	<b>\$2,500</b>	

**Reason:** *To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. [C82]*

## 9. Structural Details

Structural engineering details and design calculations, prepared and certified by a qualified, practising Structural Engineer, must be submitted with Construction Certificate application, for all reinforced concrete work, structural steel work,



retaining walls, brick fences, shoring and underpinning, isolated piers, chimneys, parapets and other structural members.

*Reason: To ensure the structural integrity of the proposed building works. [SPECIAL CONDITION]*

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **10. Silt & Sediment Control**

Provision shall be made throughout the period of demolition / Excavation & Construction to prevent transmission of soil to the public road and drainage system by vehicles leaving the site.

*Reason: To avoid siltation to adjoining properties and waterways. [D1]*

### **11. Construction Certificate**

A Construction Certificate is required to be approved and issued by either Council or an Accredited Certifier, prior to the commencement of any works on the site.

*Reason: Legislative requirements. [D3]*

### **12. Notice of Commencement**

At least 2 days prior to work commencing on site Council must be informed, by the submission of a Notice of Commencement in Accordance with section 81A of EP & A Act 1979 of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence.

*Reason: Legislative requirement for the naming of the PCA. [D4]*

### **13. WorkCover**

Your attention is directed to the need to seek advice of your obligations from the WorkCover Authority prior to the commencement of any works on the site.

*Reason: Statutory requirement. [D5]*

### **14. Structural adequacy and Excavation work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed



and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Before excavation, the responsible person must notify their intention to the adjoining owner/s and shall at the same time furnish to such owner/s particulars of the work proposed to be carried out.

***Reason: Safety. [D9]***

## **15. Excavation/Building Works**

No excavation or building works shall be carried out until a Construction Certificate has been issued.

***Reason: To ensure compliance with statutory provisions. [D13]***

## **16. Inspection Fees**

Where Council is acting as the Principal Certifying Authority and where an inspection of building, civil or landscape work is required by these conditions, inspection fees and component certification fees must be paid to Council before Council will undertake any inspections. These fees may be paid at the time of submission of the required Notice of Commencement of works. This condition applies regardless of whether a Certification fee is also payable.

Note: The submission of a Notice of Commencement of works form to Council at least two (2) days prior commencing works is a statutory requirement.

***Reason: Statutory requirement and information. [D14]***

## **17. Cigarette Butt Receptacle - Residential**

A cigarette butt receptacle is to be provided on the site for the duration of demolition/construction process, for convenient use of site workers.

***Reason: To ensure adequate provision is made for builders' waste. [D16]***

**CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**



## **18. Progress Inspections (Class 1 and 10 Buildings)**

The Principal Certifying Authority (PCA) SHALL BE given a minimum of forty-eight (48) hours notice for mandatory inspection of the following:

- (a) At the commencement of the work, and
- (b) After excavation for, and prior to the placement of any footings, and
- (c) Prior to pouring any in-situ reinforced concrete building element, and
- (d) Prior to covering of the framework for any floor, wall roof or other building element, and
- (e) Prior to covering over stormwater drainage connections, absorption pits and other drainage works, and
- (f) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The appointed Principal Certifying Authority MUST do the first inspection at the commencement of building work, and at completion of building work.

Notes:

- (1) The appointed Principal Certifying Authority has a discretion to determine additional inspections, or nominate other Accredited Certifiers to undertake inspections other than the first and last inspections, which are required to ensure compliance or otherwise with relevant codes and standards. In any event, the Principal Certifying Authority MUST be advised at all of the stages of construction identified above.
- (2) The PCA must advise the person with the benefit of the consent of the mandatory critical stage inspections referred to in the EP & A Regulations.
- (3) Where Warringah Council is acting as the Principal Certifying Authority for the project, notice is to be given by telephone to Council on 9942 2111 and requesting an relevant inspection. Failure to advise Council at the stages of construction identified above may result in fines being imposed.
- (4) Failure to advise the Principal Certifying Authority of the need for MANDATORY INSPECTIONS at the critical stages of construction detailed above may result in fines being imposed, works being required to be demolished, or delays experienced in obtaining final certification and occupation of the development in order to resolve issues.

***Reason:*** Prescribed mandatory inspections under legislation. [E7]



## **19. Replacement of Principal Certifying Authority**

If the person exercising the benefits of a development consent changes or replaces the Principal Certifying Authority (PCA) during works on the site, the replacement PCA must notify Warringah Council within two (2) days of appointment. If the original PCA was Warringah Council, written approval from Council must be obtained for any change to the PCA role.

(Note: Special legislative provisions in the Environmental Planning and Assessment Act 1979 apply to the procedure for replacing a PCA)

***Reason:*** Statutory requirement. [E11]

## **20. Replacement of Builder- (Class 1, 2, 3 and 4 buildings)**

If the builder is replaced while residential building work is being carried out, the Principal Certifying Authority (PCA) must give Warringah Council written notice of the name, licence number, and insurer of head contractor (or name and permit number of the owner-builder) within two (2) days of their appointment/replacement.

***Reason:*** Statutory requirement. [E12]

## **21. Noise and Vibration**

Noise emissions and vibration must be minimised where possible and work is to be carried out in accordance with Environment Protection Authority guidelines for noise emissions from construction/demolition works and must also comply with the provisions of the Protection of the Environment Operations Act 1997. This Condition must be complied with during demolition and building work.

***Reason:*** To ensure residential amenity is maintained in the immediate vicinity. [E17]

## **22. Dust Emission and Air Quality**

Materials must not be burnt on the site.

Vehicles entering and leaving the site with soil or fill material must be covered.

Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction. Odour suppression measures must be carried out so as to prevent nuisance occurring at adjoining properties. This Condition must be complied with during demolition and building work.

***Reason:*** To ensure residential amenity is maintained in the immediate vicinity. [E18]

## **23. Construction Hours**





Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

***Reason:*** *To ensure that works do not interfere with reasonable amenity expectations of residents and the community. [E26]*

#### **24. Installation and Maintenance of Sediment Control**

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council guidelines. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised. This Condition must be complied with during demolition and building work.

***Reason:*** *To protect the environment from the effects of sedimentation and erosion from development sites. [E28]*

#### **25. Health and Safety**

The work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that; warn the public to keep out of the site, and provide a contact telephone number for enquiries. This Condition shall be complied with during demolition and building work.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the Internet at [www.WorkCover.nsw.gov.au](http://www.WorkCover.nsw.gov.au).

***Reason:*** *To ensure the health and safety of the community and workers on the site. [E30]*

#### **26. Prohibition on Use of Pavements**

Building materials shall not be placed on Council's footpaths, roadways, parks or grass verges and a suitable sign to this effect shall be erected adjacent to the street alignment.



**Reason:** *To ensure public safety and amenity on public land. [E35]*

## **27. Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.

**Reason:** *Public Safety [E39]*

# **OPERATIONAL CONDITIONS IMPOSED UNDER EP&A ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION**

## **28. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**Reason:** *Prescribed - Statutory. [F1]*

## **29. Home Building Act**

- (1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
  - (a) in the case of work to be done by a licensee under that Act:
    - (i) has been informed in writing of the licensee's name and contractor licence number, and
    - (ii) is satisfied that the licensee has complied with the requirements of the Home Building Act, or
  - (b) in the case of work to be done by any other person:
    - (i) has been informed in writing of the person's name and owner-builder permit number, or
    - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: The amount referred to in paragraph (b)(ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was



gazetted, that amount was \$3,000. As those regulations are amended from time to time, that amount may vary.

- (2) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
- (3) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

***Reason:*** Prescribed - Statutory. [F2]

**Note:** Evidence of insurance required PRIOR to commencement of work.

### **30. Excavation / Backfilling**

- (1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

***Reason:*** To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage. [F5]

### **31. Site Sign**

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - (a) stating that unauthorised entry to the work site is prohibited;
  - (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- (2) Any such sign must be maintained while building work or demolition work is



being carried out, but must be removed when the work has been completed.

- (3) This condition does not apply to building works being carried out inside an existing building.

***Reason:*** Statutory requirement. [F9]

## **32. Toilets**

- (1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (2) Each toilet provided:
  - (a) must be a standard flushing toilet, and
  - (b) must be connected:
    - (i) to a public sewer; or
    - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
    - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (4) In this clause:

**accredited sewage management facility** means a sewage management facility to which Division 4 Sub-division 5 of the Local Government (General) Regulation 2005 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in of the Regulation.

**approved by the Council** means the subject of an approval in force under the Local Government (General) Regulation 2005.

**public sewer** has the same meaning as it has in the Local Government (General) Regulation 2005.

**sewage management facility** has the same meaning as it has in the Local Government (General) Regulation 2005.

***Reason:*** To ensure adequate facilities are provided for workers on the site. [F10]

### 33. Long Service Levy

Payment of the Long Service Levy is required prior to the release of the Construction Certificate. This payment can be made at Council or to the Long Services Payments Corporation.

Advisory note: The rate of the Long Service Levy at the time of consent is 0.35% of the building construction works. At the time of consent, payment is not required where the value of the works is less than \$25,000. For works that are \$25,000 or over, a fee is required at the prescribed rate. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply and is based on the building construction works identified in the Construction Certificate.

**Reason:** *Prescribed - Statutory. [F12]*

### 34. Retaining Walls & Drainage

If the soil conditions require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage in accordance with the provisions of AS3500.3.2.

**Reason:** *To ensure appropriate measures are in place to address site conditions and provide appropriate site drainage. [F13]*

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

### 35. On-Site Stormwater Detention Compliance Certification

The on-site detention system and associated drainage works are to be in accordance with the drainage plan submitted by Kozarovski & Partners consultants (Drawing No C-820/02 dated 18 February 2006). On completion of works a works as executed drawing and certification of the works by the design engineer is to be submitted to the Principal Certifying Authority. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the above approved plans and Council's "On-site detention technical specification", the compliance certificate is to be submitted to the Principal Certifying Authority prior to occupation. Council can issue the Compliance Certificate if required subject to prescribed fee.



**Reason:** *To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded. [G27]*

### **36. Creation of Positive Covenant and Restriction as to User**

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as to user, the original completed request forms shall to be submitted to Warringah Council for authorisation. A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "NSW Land and Property Information Department" prior to occupation.

**Reason:** *To identify encumbrances on land. [G28]*

### **37. Restrictions as to User**

Restrictions as to User shall be created over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction is to be prepared to Warringah Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with the "NSW Land and Property Information Department". Warringah Council shall be nominated as a party to release, vary or modify such restriction.

**Reason:** *To ensure no modification of the stormwater detention structure without Council's consent. [G29]*

### **38. Positive Covenant (Onsite Detention Structure)**

Creation of a Positive Covenant of the Title of the land requiring the proprietor of the land to maintain the stormwater detention structures required by this Consent, in accordance with the standard requirements of Council. The Positive Covenant is to be prepared by the applicant using terms acceptable to, and which are available from Warringah Council. The positive covenant is to be endorsed by Council prior to its lodgement with the 'NSW Land and Property Information Department'.

**Reason:** *To ensure ongoing maintenance of the stormwater detention structure. [G32]*



### **Right to Review by the Council**

You may request the Council to review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979. Any request to review the application must be within 12 months after the date of determination shown on this notice.

*NOTE: A fee will apply for any request to review the determination.*

### **Right of Appeal**

If you are dissatisfied with this decision Section 97 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

**Signed**                      on behalf of the consent authority

Signature \_\_\_\_\_  
Name        Ryan Cole – Acting Team Leader Development Assessment

Date        24<sup>th</sup> November 2006