

31 March 2008

Sara & Samuel Bowtell  
P O Box 4006  
MILPERRA BUSINESS POST CENTRE  
NSW 1891

Dear Sir / Madam

2008/0056 MOD1  
MAV (PDS)

Dear Sir / Madam,

**RE: 69 Binalong Avenue, Allambie Heights  
Modification of Development Consent - 2008/0056 MOD1**

We are writing to advise that the request to modify the above-mentioned Development Consent has been approved on **20 March 2008** and determined as follows:

➤ **Condition No. 1** modified to read as follows:

The Development Application No: 2007/1203 for the construction of a two storey dwelling be modified by Development Application 2008/0056 to amend the FFL's of the approved dwelling and garage including an amendment to the rear external stairway at Part Lot 2317, DP 752038, No. 69 Binalong Avenue, Allambie Heights be approved subject to:

➤ **Modification of Condition No. 1 to read:**

**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	Title	Dated	Prepared By
36059 1/6	Site plan	20/09/2007	Masterton Homes Pty Ltd
36059 2/6	Ground floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 3/6	First floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 4/6	Section	20/09/2007	Masterton Homes Pty Ltd
36059 5/6	Elevations	20/09/2007	Masterton Homes Pty Ltd
36059 6/6	Elevations	20/09/2007	Masterton Homes Pty Ltd
36059 1/1	Demolition plan	30/10/2007	Masterton Homes Pty Ltd

Except as modified by the following plans:

Drawing Number	Title	Dated	Prepared By
36059 1/1	BASIX & Site plan	22/01/2008	Masterton Homes Pty Ltd
36059 2/1	Ground floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 3/1	First floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 4/1	Section	20/09/2007	Masterton Homes Pty Ltd
36059 5/1	Elevations	20/09/2007	Masterton Homes Pty Ltd
36059 6/1	Elevations	20/09/2007	Masterton Homes Pty Ltd

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)]**

**The addition of the following new condition No. 43 as follows:**

#### **43. Construction Certificate for Modification**

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 on those parts of the building that are the subject of the modification.

**Reason:** Legislative requirements. **[D3A]**

This letter should therefore be read in conjunction with Development Consent **DA2007/1203 dated 18 January 2008**. Please find attached a consolidated set of conditions incorporating both modifications of consent.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

Section 96(6) of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court.

Should you require any further information on this matter, please contact **Ritu Shankar** between the hours of 9.30am and 10.30am or 3.00pm and 4.00pm, Monday to Friday, on telephone number **9942 2111**, or at any time on facsimile number **9971 4522**.

Details of development applications lodged after July 1, 2005 are also available online, to access this facility please visit our DA's Online System at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au).

Yours faithfully

Ryan Cole  
**Team Leader – Development Assessments**  
**Planning & Development Services**



## **GENERAL CONDITIONS**

### **CONDITIONS THAT IDENTIFY APPROVED PLANS**

#### **1. Approved Stormwater Plan**

The stormwater drainage works are to be generally in accordance with the drainage plan submitted by Rafeletos Zanuttini Consulting Engineers, job number 28448 M, revision B, dated 28/11/2007.

**Reason:** To ensure appropriate provision for stormwater disposal arising from the development.

#### **2. 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:

<b>Drawing Number</b>	<b>Title</b>	<b>Dated</b>	<b>Prepared By</b>
36059 1/6	Site plan	20/09/2007	Masterton Homes Pty Ltd
36059 2/6	Ground floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 3/6	First floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 4/6	Section	20/09/2007	Masterton Homes Pty Ltd
36059 5/6	Elevations	20/09/2007	Masterton Homes Pty Ltd
36059 6/6	Elevations	20/09/2007	Masterton Homes Pty Ltd
36059 1/1	Demolition plan	30/10/2007	Masterton Homes Pty Ltd

Except as modified by the following plans:

<b>Drawing Number</b>	<b>Title</b>	<b>Dated</b>	<b>Prepared By</b>
36059 1/1	BASIX & Site plan	22/01/2008	Masterton Homes Pty Ltd
36059 2/1	Ground floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 3/1	First floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 4/1	Section	20/09/2007	Masterton Homes Pty Ltd
36059 5/1	Elevations	20/09/2007	Masterton Homes Pty Ltd
36059 6/1	Elevations	20/09/2007	Masterton Homes Pty Ltd

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)]**



### **3. 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.*

### **4. Approved Landscaping Plan**

Landscape Concept Drawing No. LPDA 08 - 152/1 and LPDA 08 - 152/2 prepared by Concept Landscape Architects dated Nov 2007.

**Reason:** *To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development.*

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **5. Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 with a transition gradient of 1 in 10 for 1.5 metres prior to a level parking facility. Access levels across road reserve to comply with the allocated vehicle profile detailed in Council's Minor Works Specification. Details demonstrating compliance with these requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** *To facilitate suitable vehicular access to private property.*

### **6. Development/Construction Security Bond**

A bond (determined from cost of works) of \$1000 must be deposited with Council and an inspection fee paid of \$200 prior to the issue of any Construction Certificate. This bond is to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

**Reason:** *To ensure adequate protection to Council infrastructure.*

### **7. BASIX Certification**

The development shall fully comply with the schedule of BASIX Commitments specified within BASIX Certificate No. 178762S. Plans and specifications that reflect those commitments identified on the BASIX Certificate to be satisfied prior to the issue of the Construction Certificate, shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

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

### **8. 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. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work.

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.

**Reason:** Prescribed - Statutory.

## **9. 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 are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

## **10. Section 94A Contribution**

\$3,662.00 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan. 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		\$	366,245.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$3,479	6923
S94A Planning and Administration	0.05%	\$183	6924
Total	1.0%	\$3,662	

**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.

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

## **11. Road Opening Permit**

The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The

developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

**Reason:** Statutory requirement (Roads Act 1993).

## **12. 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.

## **13. Home Building Act**

(1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) 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.

#### **14. 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 the Environmental Planning and Assessment 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.

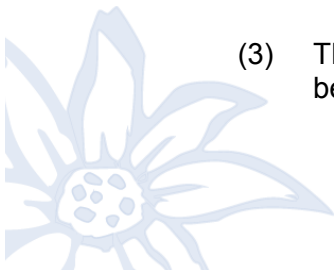
#### **15. Site Sign**

- (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.

#### **16. 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.*

#### **17. Protection of Trees During Works**

All trees that are to be specifically nominated to be retained by notation or condition as a requirement of development consent shall be maintained and protected during demolition, excavation and construction on the site. Details of required protection methods shall be provided to the Certifying Authority by an appropriately qualified person prior to commencement of any works on the site.

**Reason:** *To ensure compliance with the requirement to retain significant planting on the site.*

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

#### **18. Applicant's Cost of Work on Council Property**

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

**Reason:** *To ensure the proper management of public land.*

#### **19. 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.*

#### **20. 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 Soils and Construction Manual Volume 1 - Managing Urban Stormwater. All techniques shall



remain in proper operation until all development activities have been completed and the site fully stabilised.

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

## **21. Maintenance of Road Reserve**

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

**Reason:** *Public Safety.*

## **22. Property Boundary Levels**

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the aforementioned levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

**Reason:** *To maintain the existing profile of the nature strip/road reserve.*

## **23. 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.*

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

No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without prior Council Approval.

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

## **25. Benchmarks**

All permanent survey markers shall be retained, undamaged, and not relocated.

**Reason:** *Protection of existing environmental infrastructure and community assets.*



## **26. 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).

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such permit must be obtained and the appropriate fee paid at least two (2) clear working days in advance of each relevant date. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk.

Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.

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

## **27. Demolition Works**

All Demolition Work shall be carried out in a safe manner by trained personnel under the management of a licensed demolisher who is registered with the WorkCover Authority, in accordance with all relevant Acts, Regulations and Australian Standards.

Note: The following Australian Standard applied at the time of determination

- Australian Standard AS2601.2001 - Demolition of Structures

**Reason:** *To ensure a satisfactory standard of demolition works.*

## **28. Excavation / Backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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.*

## **29. Health and Safety**

The work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements.

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

### **30. Plant & Equipment Kept Within Site**

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This condition shall be complied with during demolition and building work.

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

### **31. Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

**Reason:** *To protect human health and the environment.*

### **32. 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 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.*

### **33. Dust emission and air quality**

Materials must not be burnt on 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 Landcom's Managing Urban Stormwater: Soils and Construction (The 'Blue Book'). Odour suppression measures must be carried out so as to prevent nuisance occurring at neighbouring properties.

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

### **34. Site Stabilisation**

Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully re-turfed and the site must be maintained in a safe and clean state until such time as new construction works commence.

**Reason:** *To retain topsoil and minimise dust pollution.*

### **35. Noise and Vibration**

Noise emissions and vibration must be minimised where possible and work is to be carried out in accordance with Department of Environment and Climate Change

(formerly) 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.*

### **36. Sediment and Erosion Control Signage**

A durable sign, which is available from Council, shall be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained.

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

### **37. No Removal of Trees on Public Property**

No trees or native shrubs or understorey on public property (footpaths, roads, reserves, etc.), unless specifically approved in 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.*

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

### **38. Stormwater Disposal Certification**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified professional. The certification is to be submitted to the Principal Certifying Authority prior to the issue of an Interim/Final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

- Australian/New Zealand Standard AS/NZS 3500.3:2003 - Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3:2003/Amdt 1:2006 - Plumbing and drainage - Stormwater drainage
- National Plumbing and Drainage Code.

**Reason:** *To ensure appropriate provision for disposal of stormwater arising from the development.*

### **39. Reinstatement of Kerb**

Prior to the issue of an Interim/Final Occupation Certificate all redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

**Reason:** To facilitate the preservation of on street parking spaces.

#### **40. Bushfire Protection**

- Construction shall comply with Australian Standard AS3959-1999 level 1 Construction of Buildings in bushfire prone areas.
- At the commencement of building works and in perpetuity the entire property shall be managed as an 'Inner Protection Area' as outlined within the Rural Fire Service's Planning for Bushfire Protection 2006.

**Reason:** Protection from bushfire and safety.

#### **41. Occupation Certificate Required**

An Interim / Final Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building.

Note: In issuing an Interim / Final Occupation Certificate the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979 have been satisfied.

**Reason:** To ensure compliance with the provisions of the Environmental Planning and Assessment Act.

### **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

#### **42. Single Occupancy**

- (a) Nothing in this consent shall authorise the use of the premises other than for a single occupancy.

**Reason:** To ensure compliance with the terms of this consent.

#### **43. Construction Certificate for Modification**

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 on those parts of the building that are the subject of the modification.

**Reason:** Legislative requirements. **[D3A]**

