

10 November 2005

Mr Peter Weston Galton
17 Blarney Avenue
KILLARNEY HEIGHTS NSW 2087

2004/1348 MOD 1
CAG (PAS)

Dear Sir / Madam,

**RE: NO 17 BLARNEY AVENUE KILLARNEY HEIGHTS
MODIFICATION OF DEVELOPMENT CONSENT NO. 2004/1348 MOD 1**

We are writing to advise that the request to modify the above-mentioned Development Consent has been approved on 4 November 2005 and determined as follows:

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

1. Development being generally in accordance with plans numbered 159-1A and 159-2A dated OCT 2005 amended 27/09/05 and submitted 10/10/05 and original approved plans numbered 159-1 dated Oct 2004, 1A dated Sept 2004 and RYA O425 dated October 2004.

This letter should therefore be read in conjunction with Development Consent 2004/1348 21 December 2004. 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 (CC2) 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 97(1) of the Environmental Planning and Assessment Act confers on the applicant who is not satisfied with the determination of the Consent Authority has a right of appeal to the Land and Environment Court exercisable within 12 months of receipt of this notice.

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.

Should you have any further enquiries in connection with this matter, please contact the referred to Enquiry Officer.

The appropriately stamped plan/s to which the modification of consent has now been granted is available for collection at Councils Customer Service Centre. Please note that if you nominate Council to assess your Construction Certificate, associated forms and information regarding what to submit is also enclosed in the determination kit.

It is Council's policy not to forward these by mail to ensure safe receipt of these important documents. When collecting your Modified Consent and accompanying documents, please bring this letter with you for identification purposes. The Customer Service Centre is open between 8.30am and 5pm Monday to Friday (excluding Public Holidays).

Work must also be in accordance with the relevant MODIFIED conditions of the Development Consent.

Should you require any further information on this matter, please contact **John Fielding** 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**.

Should you wish to view details of this development application, please feel free to visit our DA's Online System at www.warringah.nsw.gov.au.

Yours faithfully,

Keith Wright, Team Leader
Development Assessment

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

A. Conditions that Identify Approved Plans

1. Approved Plans And Supporting Documentation

Development being generally in accordance with plans numbered 159-1A and 159-2A dated OCT 2005 amended 27/09/05 and submitted 10/10/05 and original approved plans numbered 159-1 dated Oct 2004, 1A dated Sept 2004 and RYA O425 dated October 2004.

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]*

B. Conditions that require 'Ancillary' Matters to be Completed to the Satisfaction of Council or another Nominated Person Prior to Issue of Construction Certificate

NIL

**C. Conditions that Require Subsidiary Matters to be Completed
Prior to Issue of a Construction Certificate**

3. Sediment Control

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including plans and specifications shall be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Warringah Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

- (a) All details of drainage to protect and drain the site during the construction processes;
- (b) All sediment control devices, barriers and the like

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted with the Construction Certificate and approved by the Certifying Authority prior to issuing of the Construction Certificate.

Reason: *To protect the environment from the effects of sedimentation and erosion from development sites. [C43]*

4. Security Bond/Fee 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:

SECURITY BOND & FEE SCHEDULE	
17 Blarney Avenue, Killarney Heights	
DEVELOPMENT APPLICATION NUMBER 2004/1348	
SECURITY BONDS	AMOUNT (\$)
Builders Road/Kerb Security Bond	\$550.00
Others	
TOTAL BONDS	\$550.00
FEES	
Long Service Levy	\$159.35
Inspections @ \$160/inspection	\$640.00
TOTAL FEES	\$799.35

Reason: Compliance with the development consent. [C68]

D. Conditions That Must Be Addressed Prior To Any Commencement

5. Notice of Commencement

At least 2 days prior to work commencing on site Council must be informed, by the submission of Form 7 of the Environmental Planning and Assessment Regulation 1998 of the date demolition work is proposed to commence.

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

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

6. 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]*

7. 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. [D15]

8. 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. [D16]

**E. Conditions that Must be Complied With During
Demolition and Building Work**

9. Sign on site

A visually prominent sign to be erected and maintained on-site adjacent to the property's access point, for the duration of the landfill works. This condition must be complied with during demolition and building work.

Reason: *Proper identification of landfill works. [E2]*

10. E1 Progress Inspections

The Principal Certifying Authority SHALL BE given two (2) working days notice for inspection of the following:

- (a) Commencement
- (b) Prior to concrete pours
- (c) Framing

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

- (d) Final and when pool fencing is erected and prior to filling the pool with water

Notes:

- (1) Where Warringah Council is acting as the Principal Certifying Authority for the project, notice is to be given by telephoning Council on 9942 2111 and requesting the relevant inspection. Failure to advise Council at the stages of construction identified above may result in fines being imposed.
- (2) 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: Compliance, health and safety. [E10]

11. Final Compliance Certificate

Within seven (7) days of completion of the building works and prior to occupation or the issue of an Interim/Final Occupation Certificate, a Certificate of Compliance under Section 109C (1) (a) of the Environmental Planning and Assessment Act 1979 must be provided by the Principal Certifying Authority. This Compliance Certificate must certify that the completed work complies with the relevant plans and specifications and with the following conditions of this development consent: [INSERT]

Reason: To ensure compliance with the terms of this development consent. [E13]

12. 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]

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

13. 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]

14. Excavation Distance from Boundary

No excavation is to occur within 1.0m of the property boundary.

Reason: To ensure the protection of adjoining properties from the effects of excavation and potential collapse. [E33]

15. 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. [E36]

**F. Operational Conditions imposed under EP&A Act and
Regulations and other relevant Legislation**

16. 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]

17. 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

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

- (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]

18. Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au, or telephone 13 20 92.

Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. Details of any requirements of Sydney Water are to be provided with the Construction Certificate documentation.

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

The final Section 73 Certificate must be submitted to the Certifying Authority prior to release of any linen plan for subdivision or prior to occupation of the development. Alternatively, if Sydney Water advises that a Section 73 Certificate is not required for the proposed development, written confirmation of this advice is to be provided.

Reason: To ensure compliance with the statutory requirements of Sydney Water. [F3]

19. Excavation/Demolition

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.
3. Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

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

20. Support for Neighbouring Buildings

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (a) must preserve and protect the building from damage;
 - (b) if necessary, must underpin and support the adjoining building in an approved manner Subject to adjoining owner's consent; and
 - (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- (3) In this clause, allotment of land includes a public road and any other public place.

Reason: To ensure adjoining owner's property rights are protected and protect adjoining properties from potential damage. [F6]

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

21. Protection of Public Places

- (1) If the work involved in the erection or demolition of a building:
 - (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - (b) building involves the enclosure of a public place,a hoarding and site fencing must be erected between the work site and the public place.
- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- (5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout.

Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given.

Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

Reason: **To ensure public safety and the proper management of public land.** [F7]

22. 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

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

(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. [F8]

23. 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. This payment is not required where the value of the works is less than \$25,000.

The Long Service Levy is calculated on 0.2% of the building and construction work.

Reason: Prescribed - Statutory. [F11]

24. 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. [F12]

G. Conditions which Must be Complied With Prior to Issue of Occupation Certificate

53. Swimming Pool Water to Sewer

The swimming pool including overflow water shall be drained to the sewer. The consent of Sydney Water to dispose of waste water shall be obtained and compliance with any conditions imposed in connection therewith.

Reason: Water from a swimming pool is classified as waste water and cannot be legally disposed of into the stormwater system. [G17]

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

54. Pool Access

Access to the pool shall be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act, 1992:

- (a) The pool shall not be filled with water or be allowed to collect stormwater until the installation of the child resistant barrier is completed; and
- (b) The barrier is to conform to the requirements of AS 1926 Fences and Gates for Private Swimming Pools.

Reason: To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act, to prevent young children from accidental death by drowning. [G18]

55. Pool Safety Requirements

The owner of the pool shall display a notice showing:

- (a) Appropriate instructions of artificial resuscitation methods.
- (b) A warning stating 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL'.

Note: This notice shall be kept in a legible condition and at the pool side.

Reason: To ensure an adequate level of safety for young pool users. [G19]

56. Swimming Pools

The filtration motor, pump and moving parts shall be enclosed in a sound-proofed structure of masonry or similar materials, with the noise level of any filtration equipment or pumps to not exceed 5dBA above the ambient background noise level measured at the nearest property boundary.

Reason: Noise control [G20]

57. Pool Fencing (Gates)

In accordance with Australian Standards any gates in the fence shall open outwards away from the pool area and be self closing and fitted with a latch which shall be automatic and of a type which cannot be easily manipulated by small children. Latches must be on the inside of the gate and as near as possible to the top.

Reason: To ensure compliance with the relevant standards. [G21]

**Consolidated Conditions of Modification No. 1 Approved 4 November 2005
of Development Consent 2004/1348**

H. Conditions that Must be Complied with Prior to Final Completion

Nil

I. On-going Conditions that Must be Complied with at All Times

Nil