



NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Development Application No: DA 2006/184

DEVELOPMENT APPLICATION DETAILS

Applicant Name: Clement Gregory O'grady

Applicant Address: 125 Soldiers Avenue Harbord NSW 2096

Land to be developed (Address): Lot 74, DP 7912, 125 Soldiers Avenue Harbord

Proposed Development: swimming pool and alterations and additions at the rear of the dwelling including retaining walls

DETERMINATION

Made on (Date): 12 May 2006

Consent to operate from (Date): 12 May 2006

Consent to lapse on (Date): 12 May 2011

Details of Conditions – (including Section 94 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.

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
06015-1	

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]*

3. Compliance with notation in red on the plans

Compliance with notation in red on the plans. Excavation for the swimming pool and pool surrounds is restricted to be no closer than 2.5m from the rear boundary as indicated in red on the plans.

Reason: *To ensure protection of tree in neighbouring property at No 28 Coles Road.*

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

4. 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]*

5. 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]*

6. 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 and Swimming Pools Regulations, 1998:

- (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.

Details demonstrating compliance with this requirement are to be approved by the Council / Accredited Certifier prior to the issue of the Construction Certificate.

Reason: *To ensure the safety of children and make applicant aware of the need to comply with applicable pool fencing legislation. [C68]*

7. 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:

SECURITY BOND & FEE SCHEDULE	
125 Soldiers Avenue, Harbord	
DEVELOPMENT APPLICATION NUMBER 2006/0184	
SECURITY BONDS	AMOUNT (\$)



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	
TOTAL BONDS	\$ 825.00
FEES	
Kerb Security Inspection Fee	\$200.00
Section 94 contribution	
Long Service Levy	\$657.00
Progress Inspections if Council is PCA	\$1250.00
TOTAL FEES	\$ 2107.00

***Reason:** Compliance with the development consent. [C71]*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

8. 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]*

9. 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]*

10. 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]*

11. 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]*

12. 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]*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. 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, where applicable:

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

NOTE: The pool is not to be filled with water before fencing is erected

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]

14. 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]

15. 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]

16. 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]*

17. 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]*

18. Protection of Trees

The following tree/trees are required to be retained as part of the development consent:

Eucalyptus.sp. in the rear yard of the neighbouring property at No 28 Coles Road.

Reason: *Protection of existing environmental infrastructure and community assets. [E22]*

19. 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]

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 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]

21. 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.

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

22. Trees

- (1) All approved excavation carried out within the specified radius of the Trunk/Trunks of the following tree/trees shall be hand dug without severing any roots greater than 50mm:

Plant species	Tree number	Radius from trunk
Eucalyptus. sp.	N/A	2.5m from property boundary

Reason: Protection of trees. [E37 (1)]

- (2) Tree roots of 50mm or greater in diameter encountered during excavation, shall only be cut following consultation with a qualified Arborist. Tree roots between 10mm and 50mm in diameter, severed during excavation, shall be cut cleanly by hand.



Reason: Protection of trees. [E37 (2)]

- (3) The following guidelines are to be complied with at all times:
- (a) The applicant shall ensure that at all times during the development period no activities, storage or disposal of materials shall take place beneath the canopy of any tree covered under Council's Tree Preservation Order unless specifically approved by Council.
 - (b) Trees marked for retention are not to be damaged or used to display signage, or as fence or cable supports for any reason.
 - (c) Siting of sheds, stockpiles and vehicle parking should be sited so that they are remote from trees.
 - (d) Site personnel are to be made aware of tree requirements and protective measures. Paving materials placed within the dripline of any tree should be of a porous material.

Reason: Protection of trees. [E37 (5)]

- (4) During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:
- (a) A general decline in health and vigour.
 - (b) Damaged, crushed or dying roots due to poor pruning techniques.
 - (c) More than 10% loss or dieback of roots, branches and foliage.
 - (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
 - (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
 - (f) An increase in the amount of deadwood not associated with normal growth.
 - (g) An increase in kino or gum exudation.
 - (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
 - (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

The presence of any of these symptoms or signs may be considered by Council as a breach of the Conditions of Development Approval.

Reason: Protection of trees. [E37 (6)]

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

23. 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]

24. 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.

25. 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]*

26. 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]*

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

27. 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.

Reason: *To ensure compliance with the provisions of the Environmental Planning and Assessment Act. [G1]*

28. Termite Control

- (1) Termite control measures being installed in accordance with AS 3660.1-2000 “Termite Management: New Building Work.”

Reason: Termite control. [G6 (1)]

- (2) A durable notice is to be permanently fixed to the building in a prominent location, such as the meter box or the like, indicating: The method of termite protection; date of installation; life expectancy of chemical barrier (if used); and installer’s or manufacturer’s recommendations for the scope and frequency of future inspections for termite activity.

Reason: Termite control. [G6 (2)]

29. 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 wastewater shall be obtained and compliance with any conditions imposed in connection therewith.

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

30. 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 and Swimming Pools Regulation 1998;

- (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]

31. 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 poolside.

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

32. 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]*

33. 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]*

34. Permit from Sydney Water required before filling pool

A permit is required from Sydney Water prior to filling as the proposed swimming pool will be over the 10000 litre minimum. (<<http://www.sydneywater.com.au/>>)

Reason: *State Government requirement*



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 Keith Wright- Team Leader, Development Assessment

Date 12 May 2006