

**MINUTES OF THE WAVERLEY LOCAL PLANNING PANEL  
MEETING HELD BY VIDEO CONFERENCE ON  
WEDNESDAY, 27 JULY 2022**

**Panel members present:**

The Hon Paul Stein (Chair)  
Graham Brown  
Annelise Tuor  
Penelope Mora (community representative)

**Also present:**

Ms B McNamara	Manager, Development Assessment (Area 3)
Mr T Sneesby	Acting Manager, Development Assessment (Area 1)
Mr B Magistrale	Manager, Development Assessment (Area 2)
Ms R Siaoosi	Administration Officer

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*At the commencement of the public proceedings at 12.05 pm, those panel members present were as listed above.*

*At 1.25pm, the meeting was closed to the public.  
At 1.45pm, the Panel reconvened in closed session.  
At 4.30pm, the meeting closed.*

**WLPP-2207.A**

**Apologies**

There were no apologies

**WLPP-2207.DI**

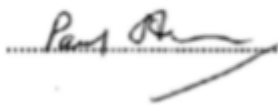
**Declarations of Interest**

The Chair called for declarations of interest and none were received

**WLPP-2207.R**

**Determinations**

The Panel resolved to make the following determinations overleaf.



The Hon Paul Stein  
**Chairperson**

**28 & 30 Bourke Street QUEENS PARK NSW 2022 -Modification to extend the operational hours of the Childcare Centre to Mon - Fri 7.45am - 5.45pm; allow leaf blowing from 7am-7.45am; upgrade of boundary fences for acoustic compliance; and increase age from 0-5 years. (DA-133/1987/B)**

Report dated 7 July 2022 from the Development and Building Unit.

**Council Recommendation:** That the modification application be APPROVED in accordance with the conditions contained in the report.

**RESOLUTION:** The Panel approves the modification application in accordance with the recommendations in the Planning Officer's report and recommended conditions as amended by the Panel as follows:

#### AMEND CONDITION 22

##### USE OF MACHINERY

The use of a leaf blower and other machinery is to be minimised and only used during the approved hours of operation of the centre (7.45am – 5.45pm).

The use of a leaf blower and other machinery must comply with the Protection of the Environment Operations Act 1997.

#### AMEND CONDITION 23

##### USE OF CHILD CARE CENTRE TO OPERATE IN ACCORDANCE WITH DA-729/2010

The use of the child care centre is to operate in accordance with DA-729/2010. Where a condition under DA-133/1987/B contradicts a condition within DA-729/2010, the condition under DA-133/1987/B is to prevail.

#### AMEND NEW CONDITION PLAN OF MANAGEMENT – GENERAL USE

A Plan of Management (PoM) (or amended Plan of Management) is to be submitted for the operation of the premises and is to include details of the operational and management procedures as well pro-active measures to control the following:

- (a) Amenity impacts to the surrounding neighbourhood of the premises;
- (b) Compliance with conditions (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints);
- (c) The behaviour of patrons;
- (d) Liquor practices (if licensed, including the responsible service of alcohol);
- (e) Staffing roles and responsibilities (including security personnel if required);
- (f) Management of patrons within the premises and their exit and dispersal from the area; and
- (g) Other such operational matters to ensure compliance with relevant regulatory requirements.

The PoM shall be submitted to and approved by Council's Executive Manager, Development Assessment (or delegate) prior to the extended operating hours commencing as approved in Condition titled 44.

#### AMEND CONDITION 18

##### HOURS OF OPERATION

The hours of operation for the premises are restricted to:

Monday to Friday: 7:45am – 5:45pm.

Children should not occupy the outdoor play areas after 5.30pm.

#### NEW CONDITION 42

##### OPERATION IN ACCORDANCE WITH ACOUSTIC REPORT

The use of the development must comply with the recommendations in the Acoustic Report by Koikas Acoustics dated 7 December 2021 page 22.

1. The outdoor play areas may be occupied between 7.45 am and 8.30 am by no more than:
  - (a) 8 children aged 0-2 years partaking in free play
  - (b) 10 children aged 2-3 years partaking in passive play only
  - (c) 14 children aged 3-5 years partaking in passive play only
2. Children should not occupy the outdoor play areas between 5.30 pm and 5.45 pm.
3. Noise breakout from children inside the centre and the air conditioning condenser units, assessed during the proposed extended hours, will comply with the project noise criteria during both proposed extended operating periods.
4. Existing boundary fences between the child care centre and 37 Isabella Street, and along the Isabella Street boundary should be updated/upgraded from the existing paling fence style to a solid noise barrier with no gaps. Suitable construction recommendations are provided in Section 6.2.5.
5. A suitable Noise Management Plan should be prepared and implemented which outlines staffing responsibilities in terms of noise control and management of children activities. This is particularly relevant for the period of 7.45 am to 8.30 am where only limited numbers of children aged between 2 and 5 should occupy outdoor play areas and only for passive play.

DELETE RECOMMENDED CONDITIONS

- 28. LONG SERVICE LEVY
- 28. HOARDING
- 29. ENGINEERING DETAILS
- 31. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS
- 32. CONTROL OF DUST ON CONSTRUCTION SITES
- 35. CONSTRUCTION INSPECTIONS
- 36. CERTIFICATE OF SURVEY – LEVELS
- 37. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING
- 39. FINAL OCCUPATION CERTIFICATE
- 40. CHILD CARE LICENCE
- 44. HOURS OF OPERATION

Council to update numbering within the conditions of consent to reflect new/deleted and amended conditions as above.

**For the RESOLUTION: Stein, Brown, Tuor and Mora**

**Against the RESOLUTION: Nil**

**REASON:** The Panel is satisfied that the modification application is substantially the same development; has been notified appropriately; and the Panel has considered the submissions and taken into account the reasons the consent authority granted consent that is sought to be modified in accordance with the EPA Act.

*G Stevenson, J Mitchell and S McCarthy (Objectors), S Mansour (on behalf of the applicant) addressed the meeting.*

**30 Dellview Street, TAMARAMA NSW 2026 - New swimming pool, deck and cabana at rear, relocation of existing retaining wall to side and rear boundaries and landscaping, and change of use of duplex to a residential dwelling house. (DA-67/2015/1/A)**

Report dated 13 June 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be REFUSED for the reasons contained in the report.

**RESOLUTION:** This modification application is approved in accordance with the following conditions and the recommended ordinary conditions of consent (Appendix A).

## 1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Landscape Plan No. 16-1627(A)LP1 – LP3, Issue B, prepared by 3DL Landscape Consultants, dated 27.07.2016;
- (b) Landscape Plan No. 16-1627(A)LP4, Issue A, prepared by 3DL Landscape Consultants, dated 09.06.2016;
- (c) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

***As amended by: Drawing 400 revision B, titled "Existing Landscape Plan", dated 14.06.2022***

Except where amended by the following and attached Appendix A conditions of consent.

## 2. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

- (a) The frameless glass pool fencing proposed on top of the retaining wall to the south of the lawn area shall be transparent glazing and not translucent or opaque.
- (b) The landscaping and retaining walls to the south of the retaining wall on the southern side of the lawn area and to the south of the pool and rear floating deck shall be designed and constructed to retain as much of the existing natural rock as possible. The height of the retaining walls in this area is to be minimised and of sufficient height only to retain the soil necessary for the proposed planting.
- (c) The following references on Drawing No. 16-1627(A)LP2, Issue B, prepared by 3DL Landscape Consultants, dated 27.07.16 shall be deleted:
  - i. "proposed steps onto lawn"; and
  - ii. "1200 high safety glass fence on boundary retaining wall".;
- (d) The Magnolia Grandiflora trees on the southern boundary are not approved, and must be replaced with Trachelospermum Tricolor.

- (e) The Banksia integrifolia, Magnolia Grandiflora, and Syzgium cascade trees on the northern boundary are not approved, and must be replaced with Acmena smithii, Plumeria Rubra, Asplenium Australasicum, Dicksonia Antartica, Blechnum Silver Lady, Cyathea Australis, or Trachelospermum Tricolor.

The amendments are to be approved by the Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

#### **41A TREES TO BE REMOVED PRIOR TO ISSUANCE OF OCCUPATION CERTIFICATE**

The following unauthorised trees must be removed from the site prior to the issuing of an Occupation Certificate:

- (a) The Magnolia Grandiflora trees on the southern boundary.
- (b) The Banksia integrifolia, Magnolia Grandiflora, and Syzgium cascade trees on the northern boundary.

#### **49 TREES TO BE PRUNED TO BE A MAXIMUM HEIGHT**

The Banksia integrifolia trees along the southern and eastern boundaries must be maintained to not exceed the height of 5 metres above existing ground level.

#### DELETE CONDITION 16

#### **16 AMENDED LANDSCAPE PLAN**

**For the RESOLUTION: Stein, Brown, Tuor and Mora**

**Against the RESOLUTION: Nil**

**REASON:** The Panel was of the opinion that subject to the conditions drafted above, the application can be approved. The amended planting regime provided by the approval conditions achieves a better balance in protecting views from the Public Domain and adjoining private properties, while contributing to landscape character of the area.

*P Chapman and W Corkill (Objectors), addressed the meeting.*

**5 Pacific Avenue, TAMARAMA NSW 2026 - Demolition of existing residential flat building and construction of a part four and five-storey residential flat building containing 5 apartments, basement level parking and swimming pool. (DA-44/2022)**

Report dated 13 July 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be granted DEFERRED COMMENCEMENT CONSENT for the reasons contained in the report.

**RESOLUTION:** The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated that consent may be granted to the development application that contravenes the height and floor space ratio development standards. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

The Panel approves the development application as a deferred commencement consent in accordance with the recommendations in the Planning Officer's report and in accordance with the conditions recommended in the report as amended by the Panel:

#### DEFERRED COMMENCEMENT

That the Council grant deferred commencement consent in accordance with the provisions of Section 4.16 (3) of the Environmental Planning and Assessment Act 1979.

The consent is not to operate until the applicant has satisfied Council as to the following matters:

1. In order to minimise the excavation and amenity impacts, the basement and ground floor are to be redesigned to delete excavation to the north of the lift and stairwell area. Storage and Plant may be provided at ground level but only to the extent necessary to meet the minimum requirements of the ADG for Storage or Plant that is needed to accommodate the reasonable needs of the development. The number of car parking spaces may be reduced to accommodate this and/or the car stacker relocated to the south of the liftwell.
2. To ensure deep soil along one side boundary and to provide increased protection to the adjoining dwelling with limited setbacks along the western boundary, the basement is to be set back a minimum of 1.5 metres from the western side boundary. The number of car parking spaces may be reduced to accommodate this.
3. Electric car charging in the garage areas must be allowed for through the provision of separate cabling and charging points, that are linked to the electrical system for each car space. Alternatively, the minimum acceptable approach would be the inclusion of ducting that allows for future cabling and charging systems to be added.
4. The top floor balcony allocated to 'Unit 5' at Level 4 shall be reduced to a maximum area of 15m<sup>2</sup> to reduce visual and acoustic privacy impacts upon surrounding properties. The remaining roof area shall be converted to a 'green roof' with low growing species that have a mature height of no more than 1 metre. A minimum of 50% of the species are to be indigenous or local native plants listed in Annexure B2-1 of Waverley Development Control Plan 2012.

5. The white paint render is to be replaced with a more durable option for the coastal environment and the green roof. The alternative material would be best if a natural finish such as stone as one example that is capable of withstanding the harsh environmental conditions.
6. The screening of windows on the western elevation to the living areas at ground and first floor levels shall be continued for the full extent of the glazing to limit privacy impacts on the opposing eastern window of No. 6 Pacific Street.
7. The solar panels are to be flush mounted on the roof and extend no more than 250mm above the roof.

This development consent does not operate until the applicant satisfies Waverley Council, in accordance with the regulations, as to the matters specified in the above conditions and Waverley Council confirms such satisfaction in writing.

**For the RESOLUTION: Stein, Brown, Tuor and Mora**

**Against the RESOLUTION: Nil**

**REASONS:** The Panel considered the clause 4.15 assessment in the Planning Officer's report and was satisfied that the proposal is acceptable and warrants approval as a deferred commencement consent. The Panel was of the view that the excavation is excessive and did not comply with the LEP and DCP as it does not minimise the extent of excavation or the amenity impacts. The deferred commencement conditions have been amended accordingly to minimise and reduce the amount of excavation.

*K Kench, M Park and S Baldwin (Objectors), V Blank and M Shapiro (on behalf of the applicant) addressed the meeting.*



**78 Military Road, DOVER HEIGHTS NSW 2030 - Modification to alter internal layout, windows and deletion of roof terrace. (DA-115/2021/A)**

Report dated 13 July 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

**RESOLUTION:** The Panel approves the modification application in accordance with the recommendations in the Planning Officer's report and recommended conditions as amended by the Panel as follows:

AMEND CONDITION 3.

Remove Vehicular Crossing in Condition 3 to read as follows:

**3. PUBLIC DOMAIN IMPROVEMENTS**

The public domain is to be upgraded along Military Road and Cadigal Place frontages of the development site in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. A public domain plan for the following works shall be submitted to Council, and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

- Pedestrian footpath
- Kerb and gutter
- Stormwater infrastructure
- Retaining wall
- Associated undergrounding works
- Landscape and street tree plantings

**For the RESOLUTION: Stein, Brown, Tuor and Mora**

**Against the RESOLUTION: Nil**

**REASONS:** The Panel is satisfied that: the modification application is substantially the same development; has been notified appropriately; and the Panel has considered the submissions and taken into account the reasons the consent authority granted consent that is sought to be modified in accordance with the EPA Act. Condition 3 was amended to delete vehicular crossing as this is addressed in Condition 37.

*M Shapiro (on behalf of the applicant) addressed the meeting.*

**99 Military Road, DOVER HEIGHTS NSW 2030 - Demolition of existing two storey detached dwelling to construct a two storey attached dual occupancy with basement carparking, swimming pool at the rear and Strata subdivision into two lots. (DA-475/2021)**

Report dated 13 July 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be REFUSED for the reasons contained in the report.

**RESOLUTION:** This development application is refused for the reasons set out in the Planning Officer's report as follows:

1. The proposal does not satisfy the objectives of the Act, as stipulated in section 1.3(g) as the proposal does not promote good design or amenity of the built environment.
2. The proposal does not satisfy section 4.15(1)(a)(i) of the Act, as the proposal does not satisfy the Waverley Local Environmental Plan 2012 (WLEP), in particular the following provisions:
  - a. Clause 4.4 Floor Space Ratio (FSR) as the proposal exceeds the maximum allowable FSR of 0.5:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP. The proposal results in adverse overshadowing impacts, and therefore, does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under Clause 4.4(1)(d) of WLEP.
  - b. Clause 4.6 Exceptions to development standards (1) and (3) as the applicant has failed to demonstrate that the proposed development will result in a better outcome for the site and a compliant development is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the breach to the FSR development standard. The proposal is not considered to be in the public interest.
3. The application does not satisfy section 4.15(l)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
  - a. Part B12 - Design Excellence

Section 12.1 Design specifically objectives (c) and (d), controls (e)(vii) and 12.2 Context Analysis objectives (a), (b) and (d) as the proposal has failed to consider the suitability of the land for development given the breach to the floor space ratio development standard and additional overshadowing impacts to adjoining properties.
  - b. Part C2 – Low Density Residential Development

Section 2.0 General Objectives specifically objectives (a) to (d) and Section 2.6 Solar Access, specifically objectives (a) to (d), as the proposal exceeds the maximum floor space ratio development standard and results in extensive overshadowing impacts on adjoining properties.

4. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development in terms of the additional building bulk results in unacceptable amenity impacts on adjoining properties.
5. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development. The scope of the development exceeds the FSR development standard resulting in additional amenity impacts on adjoining properties and is an over development of the site.
6. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to the proposed development.
7. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as the variation sought to the floor space ratio development standard has not been adequately justified by a Clause 4.6 written request demonstrating that compliance with the development standards is unnecessary or unreasonable and that there are sufficient environmental planning grounds to contravene the standards.

**For the RESOLUTION: Stein, Brown, Tuor and Mora**

**Against the RESOLUTION: Nil**

*S Reid (Objectors), J Long (on behalf of the applicant) addressed the meeting.*

**250 Military Road, DOVER HEIGHTS NSW 2030 - Alterations and additions to an existing dwelling including widening of the existing double garage. (DA-171/2022)**

Report dated 15 July 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

**RESOLUTION:** The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the height and floor space ratio development standards. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

The Panel approves the development application in accordance with the recommendations in the Planning Officer's report.

**For the RESOLUTION: Stein, Brown, Tuor and Mora**

**Against the RESOLUTION: Nil**

**REASON:** The Panel concurs with the recommendations in the Planning Officer's report.

*W Harding (on behalf of the applicant) addressed the meeting.*

**Units 1 & 2, 16 Consett Avenue, BONDI BEACH NSW 2026 - Alterations and additions to Units 1 & 2 including modification to strata plan allotments. (DA-217/2022)**

Report dated 12 July 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

**RESOLUTION:** The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the floor space ratio development standard. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

The Panel approves the development application in accordance with the recommendations in the Planning Officer's report and recommended conditions.

**For the RESOLUTION: Stein, Brown, Tuor and Mora**

**Against the RESOLUTION: Nil**

**REASON:** The Panel concurs with the recommendations in the Planning Officer's report.

*C Thorp (on behalf of the applicant) addressed the meeting.*

**25-27 Curlewis Street, BONDI BEACH NSW 2026 - Alterations and additions to an existing mixed-use building, specifically units 1 and 4. (DA-135/2022)**

Report dated 17 July 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

**RESOLUTION:** The Waverley Local Planning Panel, exercising the functions of Council as consent authority, is satisfied that the matters required to be addressed under clause 4.6(4) of Waverley LEP 2012 have been demonstrated and that consent may be granted to the development application that contravenes the floor space ratio development standard. In the opinion of the Panel the objectives of both the zone and the development standard are satisfied and therefore it is in the public interest. The Panel concurs on behalf of, and as the delegate of, the Secretary, Department of Planning and Environment.

The Panel approves the development application in accordance with the recommendations in the Planning Officer's report and recommended conditions.

**For the RESOLUTION: Stein, Brown, Tuor and Mora**

**Against the RESOLUTION: Nil**

**REASON:** The Panel concurs with the recommendations in the Planning Officer's report.

*M Fortunato (on behalf of the applicant) addressed the meeting.*

**53,55 & 57 Beaumont Street, ROSE BAY NSW 2029 - Demolition of the existing dwelling at 55 Beaumont Street and subdivision of the existing 3 lots into 2 lots (Torrens Title). (DA-118/2022)**

Report dated 12 July 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report and the addendum report dated 20 July 2022.

**RESOLUTION:** The Panel approves the development application in accordance with the recommendations in the Planning Officer's report and the addendum report dated 20 July 2022 and recommended conditions in both reports.

**For the RESOLUTION:** Stein, Brown, Tuor and Mora

**Against the RESOLUTION:** Nil

**REASON:** The Panel concurs with the recommendations in the Planning Officer's report and addendum report dated 20 July 2022.

*A Cheong (on behalf of the applicant) addressed the meeting.*

THE MEETING CLOSED AT 4.30PM

# APPENDIX A

## WLPP-2207.2

30 Dellview Street, TAMARAMA NSW 2026 - New swimming pool, deck and cabana at rear, relocation of existing retaining wall to side and rear boundaries and landscaping, and change of use of duplex to a residential dwelling house. (DA-67/2015/1/A)

## A. APPROVED DEVELOPMENT

### 1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Landscape Plan No. 16-1627(A)LP1 – LP3, Issue B, prepared by 3DL Landscape Consultants, dated 27.07.2016;
- (b) Landscape Plan No. 16-1627(A)LP4, Issue A, prepared by 3DL Landscape Consultants, dated 09.06.2016;
- (c) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

As amended by: Drawing 400 revision B, titled “Existing Landscape Plan”, dated 14.06.2022

Except where amended by the following and attached Appendix A conditions of consent.

**AMENDED – DA-67/2015/1/A**

### 2. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

- (a) The frameless glass pool fencing proposed on top of the retaining wall to the south of the lawn area shall be transparent glazing and not translucent or opaque.
- (b) The landscaping and retaining walls to the south of the retaining wall on the southern side of the lawn area and to the south of the pool and rear floating deck shall be designed and constructed to retain as much of the existing natural rock as possible. The height of the retaining walls in this area is to be minimised and of sufficient height only to retain the soil necessary for the proposed planting.
- (c) The following references on Drawing No. 16-1627(A)LP2, Issue B, prepared by 3DL Landscape Consultants, dated 27.07.16 shall be deleted:
  - i. “proposed steps onto lawn”; and
  - ii. “1200 high safety glass fence on boundary retaining wall”;
- (d) The Magnolia Grandiflora trees on the southern boundary are not approved, and must be replaced with Trachelospermum Tricolor.
- (e) The Banksia integrifolia, Magnolia Grandiflora, and Syzgium cascade trees on the northern boundary are not approved, and must be replaced with Acmena smithii, Plumeria Rubra, Asplenium australasicum, Dicksonia Antartica, Blechnum Silver Lady, Cyathea Australis, or Trachelospermum Tricolor.



The amendments are to be approved by the Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

**AMENDED – DA-67/2015/1/A**

### **3. CHANGE OF USE**

The use of the building shall be as a single dwelling house only.

### **4. SWIMMING POOLS**

The following requirements apply to the use and operation of the approved pool:

- (a) The pool water being treated by an approved water treatment and filtration unit.
- (b) The pool is to be fitted with a cover, that shall be fitted when the pool is not in use to minimise evaporation and conserve water.
- (c) To prevent noise nuisance to surrounding properties, the pool filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.

## **B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **5. SECTION 94A CONTRIBUTION**

A cash contribution is payable to Waverley Council pursuant to section 94A of the Environmental Planning and Assessment Act 1979 and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to council:
  - (1) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (2) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**A copy of the required format for the cost reports may be obtained from Waverley Council Customer Service Centre or downloaded from: [www.waverley.nsw.gov.au/publications/](http://www.waverley.nsw.gov.au/publications/)
- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 96 modification result in any change to the total cost of the work, the Section 94A contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

Waverley Council Development Contributions Plans 2006 may be inspected at Waverley Council Customer Service Centre.

#### **Advisory Note**

- A development valued at \$100,000 or less will be exempt from the levy.

- A development valued at \$100,001 - \$200,000 will attract a levy of 0.5%
- A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

## **6. SECURITY DEPOSIT**

A deposit or guarantee satisfactory to Council for the amount of \$2080.00 must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

This deposit (cash or cheque) or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit.

## **7. LONG SERVICE LEVY**

A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **8. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with Section 81A(2) of the Environmental Planning & Assessment Act, ; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning & the 197 Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days' Notice in writing of the intention to commence the works.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principle Certifying Authority.

## **9. GEOTECHNICAL ENGINEERS REPORT**

A geotechnical report, regarding the stability of the subject site and stating that damage should not occur to any adjoining premises as a result of the proposed earthworks and retaining structures, is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises. The report is to be submitted prior to the issue of a Construction Certificate and commencement of any such works on the site.

## **10. ENGINEERING DETAILS**

Structural details prepared and certified by a practicing Structural Engineer, in consultation with a geotechnical engineer, being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of a Construction Certificate.

#### **11. HOARDING REQUIRED**

If required, a standard A / B -Class hoarding designed and constructed in accordance with the requirements of the Work Cover Authority being erected on the street alignments of the property, prior to the commencement of building operations, and such hoardings to be maintained during the course of building operations. Details of the hoarding are to be provided to Council prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

#### **12. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A Site Waste and Recycling Management Plan (SWRMP) Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

#### **13. STORMWATER MANAGEMENT**

Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate.

#### **14. FENCE NOT TO ENCROACH BEYOND BOUNDARIES**

No portion of the proposed fence/retaining wall, including the footings, is to encroach beyond the boundaries of the subject property. Alternatively, documentary evidence that the owner of the adjoining property has no objection to the construction of the party fence wall on the common boundary between these properties is to be submitted to Council prior to the issue of a Construction Certificate.

#### **15. REFILLING/"TOP-UP" OF SWIMMING POOL**

Future water requirements for refilling and 'top-up' to the swimming pool are to be obtained from rainwater provided from an on-site rainwater tank or equivalent. In this regard, full details of the proposed location and size of the rainwater tank are to be provided to Council prior to issue of the Construction Certificate.

## **C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION**

### **17. PRIOR TO SITE WORKS**

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

### **18. HOME BUILDING ACT**

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

### **19. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

### **20. OBSTRUCTION TO PUBLIC AREAS**

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

- (a) a hoarding fence must be erected between the building site and the public place of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work falling into the public place, is also to be erected;
- (b) the work is to be kept lit during the time between sunset and sunrise if the work may be of a sort of danger to persons using the public place; and
- (c) a hoarding, fence or awning is to be removed when it is no longer required for the purpose it was provided.

### **21. TOILET FACILITIES**

Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.

## **22. NO USE OF ORGANOCHLORIN PESTICIDES**

The use of organochlorin pesticides as termite barriers in new development is prohibited pursuant to Council Policy. Only physical barriers are to be used for termite control. The building shall comply with Australian Standard 3660: Protection of building from subterranean termites - prevention, detection and treatment of infestation.

## **23. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS**

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) confirm that no asbestos products are present on the subject land; or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by WorkCover NSW (catalogue WC03561)
- (d) describe the method of demolition;
- (e) describe the precautions to be employed to minimise any dust nuisance; and
- (f) describe the disposal methods for hazardous materials.

## **24. USE OF FILL ON SITE**

All fill imported on to the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported onto the site shall also be compatible with the existing soil characteristics for site drainage purposes.

Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported on to the site should be validated by either one or both of the following methods during remediation works;

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material should be conducted in accordance with the NSW EPA Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

The only waste derived fill material that may be received at the development site is:

- (a) virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997), or
- (b) any other waste derived material the subject of a resource recovery exemption under cl. 51A of the Protection of the Environmental Operations (Waste) Regulations 2005 that is permitted to be used as fill material.

Any waste derived material the subject of resource exemption received at the development site must be accompanied by documentation as to the materials compliance with the exemption conditions and must be provided to the Principal Certifying authority on request.

## **25. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS**

All site works complying with the occupational health and safety requirements of WorkCover NSW.

## **26. SOIL AND WATER MANAGEMENT PLAN**

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction. This Plan shall be implemented prior to commencement of any works or activities. All controls in the Plan shall be maintained at all time. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.

## **27. STOCKPILES**

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

## **28. LOCATION OF BUILDING OPERATIONS**

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

## **29. ALL BUILDING MATERIALS STORED ON SITE**

All building materials and any other items associated with the development are to be stored within the confines of the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

## **30. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2000.

## **31. USE OF HEAVY EARTH MOVEMENT EQUIPMENT**

Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

### **32. BUILDING CODE OF AUSTRALIA**

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

### **33. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION) ACT - INSPECTIONS (DWELLING HOUSES CLASS 1 AND 10)**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certificate.

MANDATORY Critical Stage Inspections MUST be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified MANDATORY inspections are:

In the case of a Class 1 and 10 building:

- (a) at the commencement of building work;
- (b) after excavation for, and prior to the placement of, any footings;
- (c) prior to pouring any in-situ reinforced concrete building element;
- (d) prior to covering of the framework for any floor, roof or other building element;
- (e) prior to covering any waterproofing in any wet areas;
- (f) prior to covering any stormwater drainage connections; and
- (g) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

- (a) sediment control measures prior to the commencement of building work;
- (b) foundation material prior to undertaking building work;
- (c) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) steel reinforcement, prior to pouring concrete;
- (e) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) prior to installation of fire resisting construction systems (ie fire rated ceilings and walls); and
- (g) swimming pool fencing prior to filling the pool.

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

### **34. CERTIFICATE OF SURVEY - LEVELS**

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.

### **35. TREE PROTECTION**

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

### **36. TREATMENT OF BOUNDARY WALLS**

The walls on the side boundary are to be finished to a minimum standard, that being face brickwork and all mortar joints ironed (no dags). The boundary wall is to be painted in a sympathetic colour as agreed to by the owners of the neighbouring sites.

### **37. SANDSTONE WALL**

The retaining wall along the southern side is to be clad with sandstone finish, using sandstone pieces with a minimum 20mm thickness or other sandstone finish as stipulated by the applicant's engineer.

### **38. WORK OUTSIDE PROPERTY BOUNDARY**

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

### **39. CONSTRUCTION OF SWIMMING POOLS**

The following applies to the construction of swimming pools:

- (a) Reinforcement is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete;
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool being installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules;
- (c) The finished level of the proposed pool is not to exceed a maximum height of RL 27.8;
- (d) To minimise the likelihood of accidental drowning, the swimming pool is to be provided with a child resistant safety fence, designed and constructed in accordance with the requirements of Australian Standard AS 1926.1-2012 Swimming pool safety - Safety barriers for swimming pools.



This fencing is to be erected and inspected by the Principal Certifying Authority prior to the pool being filled with water; and

- (e) A final inspection of the completed pool is to be carried out by the Principal Certifying Authority prior to the pool being filled with water.

#### **40. POOL DRAINAGE**

Waste waters from the proposed pool being discharged into Sydney Water's sewerage system and in this regard, approved plans **MUST** be submitted to Sydney Water at least fourteen (14) days prior to commencement of building operations.

### **D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION**

#### **41. OCCUPATION CERTIFICATE**

The Principal Certifying Authority prior to occupation or use of the development must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act, 1979 have been satisfied.

#### **41A TREES TO BE REMOVED PRIOR TO ISSUANCE OF OCCUPATION CERTIFICATE**

The following unauthorised trees must be removed from the site prior to the issuing of an Occupation Certificate:

- (a) The Magnolia Grandiflora trees on the southern boundary.
- (b) The Banksia integrifolia, Magnolia Grandiflora, and Syzgium cascade trees on the northern boundary.

**ADDED – DA-67/2015/1/A**

#### **42. VEHICLE TO BE PARKED WITHIN THE SITE**

Only one car shall be parked on the hardstand parking space and shall be parked to be fully within the confines of the site. No vehicle shall be parked over the public footway at any time.

#### **43. POOL SIGN**

An approved sign outlining details of resuscitation techniques for adults, children and infants must be placed in a prominent position, close to the pool prior to filling the pool with water. Signs are available from Council's Planning & Environmental Services Department.

#### **44. INSPECTION OF POOL**

A final inspection of the completed pool is to be carried out by the Principal Certifying Authority prior to the pool being filled with water.

#### **45. SWIMMING/SPA POOL PUMP - RESTRICTIONS**

Swimming/spa pool pumps are restricted from being used and operated between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the

requirements of the Protection of the Environment Operations (Noise Control) Regulation 2008. On the spot fines may be imposed should breaches occur.

**46. SWIMMING POOL REGISTRATION**

The swimming pool is to be registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>) and a Certificate of Compliance obtained for the pool barrier is required to be submitted to Council prior to the issue of an Occupation Certificate.

**47. LANDSCAPE PLAN**

The site is to be landscaped and turfed in accordance with the approved landscaped plan with the landscape works completed prior to the issue of the Occupation Certificate.

**48. LIGHTING**

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

**49. TREES TO BE PRUNED TO BE A MAXIMUM HEIGHT**

The Banksia integrifolia trees along the southern and eastern boundaries must be maintained to not exceed the height of 5 metres above existing ground level.

**ADDED – DA-67/2015/1/A**

END OF CONDITIONS