

**Original signed by Robin Tse on 28/6/2018**

**Date determined: 18/6/2018**

**Date operates: 28/6/2018**

**Date lapses: 28/6/2023**

Joanna Robinski  
2/30 Hordern Street  
NEWTOWN NSW 2042

D118/18  
LD (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
ROADS ACT 1993, AND LOCAL GOVERNMENT ACT 1993 AS APPLICABLE**

**Notice to Applicant of Determination of a Development Application**

Pursuant to Section 4.18 of the Act, notice is given that Development Application No. **118/18** proposing **alterations and additions to an existing dwelling including upgrade works to the existing verandah over Council's footpath on Willoughby Street** on land described as **47 Elamang Avenue, Kirribilli** has been determined under delegated authority by the granting of consent subject to the conditions below. Where indicated, approval is also granted for works on public roads under the provisions of Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993. An index of conditions is also attached on the last page of this Notice.

**A. *Conditions that Identify Approved Plans***

**Development in Accordance with Plans/documentation**

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

<b>Drawing Number</b>	<b>Revision/Issue</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>
A100	D	Proposed Site Plan	Ir designs	20/04/2018
A101	D	Proposed Plans	Ir designs	20/04/2018
A102	D	Proposed Elevations	Ir designs	20/04/2018

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**Plans on Site**

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must 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.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(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)

**No Demolition of Extra Fabric**

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

- C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated).*

**Dilapidation Report Damage to Public Infrastructure**

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

**Structural Adequacy of Existing Building**

- C2. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

### **Waste Management Plan**

- C3. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
  - b) The design of the on-site waste storage and recycling area; and
  - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

### **Colours, Finishes and Materials (Conservation Areas)**

- C4. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area.)

### **Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement**

- C5. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$1,000 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
  - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
  - c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

### **Asbestos & Hazardous Material Survey**

C6. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and

- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily)

**Privacy screen on the western side of the verandah over Council's footpath**

- C7. No approval is granted or implied for the construction of a vertical batten screen on the western side of the front verandah that is located over Council's footpath on Willoughby Street. The existing horizontal privacy screen on the western side of the front verandah that is located over Council's footpath on Willoughby Street may be retained and repaired with same materials and finishes as existing.

(Reason: To maintain the heritage significance of the dwelling)

**Heads of Agreement**

- C8. The applicant and Council must enter into a Heads of Agreement agreeing to the formalisation of a Lease Agreement over the existing balcony airspace over the public footpath in the road reserve of Willoughby Street.

- (a) A current Plan of Survey prepared by a Registered Surveyor must be submitted with the 'Total Area of the Encroachment' identified and noted in the Plan in m<sup>2</sup>. The Plan must be accompanied by a letter from the Surveyor confirming the area in m<sup>2</sup>.
- (b) Prior to the issue of a Construction Certificate, a Heads of Agreement must be entered into between Council and the encroaching owner. This must be followed by the execution of the Lease Agreement.
- (c) The commencement date of the lease shall be the Date of Practical Completion.
- (d) A bond of \$10,000 must be lodged to cover all costs associated with the preparation & negotiation of the lease documents and is to be accompanied with a letter of authorisation from the property owner granting Council permission to draw on the bond.
- (e) The lessee will be responsible for all maintenance and insurance.

(Reason: To formalise the Lease Agreement)

***D. Prior to the Commencement of any Works (and continuing where indicated)***

**Public Liability Insurance – Works on Public Land**

D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note, and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

(Note: Applications for hoarding permits, vehicular crossings etc. will require evidence of insurance upon lodgement of the application.)

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

**Commencement of Works Notice**

D2. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

***E. During Demolition and Building Work***

**Cigarette Butt Receptacle**

E1. A cigarette butt receptacle is to be provided on the site for the duration of excavation/demolition/construction process, for convenient use of site workers.

(Reason: To ensure adequate provision is made for builders' waste)

**Parking Restrictions**

E2. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

### **Road Reserve Safety**

- E3. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

### **Removal of Extra Fabric**

- E4. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

### **Dust Emission and Air Quality**

- E5. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
  - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
  - (c) 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.

- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

### **Noise and Vibration**

- E6. The works must be undertaken in accordance with the “Interim Construction Noise Guideline” published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

### **Developer's Cost of Work on Council Property**

- E7. The developer must bear the cost of all works associated with the development that occurs on Council’s property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

### **Special Permits**

- E8. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council’s Customer Service Centre for the undermentioned activities on Council’s property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours’ notice is required for any permit: -

1) **On-street mobile plant**

E.g. cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer’s, owner’s and builder’s responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner’s rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

**Construction Hours**

E9. Building construction and works must 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 must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. For the purposes of this condition:

- a) "Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) "Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.

- c) “Excavation work” means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or 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 and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must 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)

### **Site Amenities and Facilities**

- E10. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work place determines the type of amenities required.

Further information and details can be obtained from the Internet at [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

(Reason: To ensure the health and safety of the community and workers on the site)

### **Health and Safety**

- E11. All 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.

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

(Reason: To ensure the health and safety of the community and workers on the site)

### **Prohibition on Use of Pavements**

- E12. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

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

- E13. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc., must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au).

(Reason: To ensure public safety and amenity on public land)

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

#### **National Construction Code**

- F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

#### **Home Building Act**

- F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:
- a) in the case of work for which a principal contractor is required to be appointed:
    - i) the name and licence number of the principal contractor, and
    - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
  - b) in the case of work to be done by an owner-builder:
    - i) the name of the owner-builder, and
    - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may 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.

Note: 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.

(Reason: Prescribed - Statutory)

### **Appointment of a Principal Certifying Authority (PCA)**

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

### **Construction Certificate**

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

### **Occupation Certificate**

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

### **Mandatory Critical Stage Inspections**

F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

### **Demolition**

F7. 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)

### **Protection of Public Places**

- F8.
- 1) A hoarding and site fencing must be erected between the work site and adjoining 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)

**Site Sign**

- F9. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

**Insurance – Encroachment**

- F10. In the event that part of the proposed development encroaches upon or over Council land, the land owner must defend and hold harmless, indemnify and keep indemnified, Council and its employees, officers, agents and contractors from and against all claims, expenses, losses including consequential losses, damages and costs (including costs on a solicitor and client basis and whether incurred by or awarded against Council) that Council may sustain or incur as a result, whether directly or indirectly, of the encroachment by the proposed development on Council land, including:
- a) any injury or death to any person including any injury or death to the general public, employees, officers, agents and contractors, or invitees, or other entity of the Council; or
  - b) damage to or loss of any property; and
  - c) arising out of performance by the land owner of its obligations under the Conditions of Consent including claims by a person who is not a party to this development, except to the extent caused or contributed to by Council, its contractors, employees and agents.

Without limiting the generality of **Condition F10**, the land owner must ensure that:

- a) the processes and methods to be used for carrying out the development will be completely suitable for the purposes for which they are required;

- b) the development is carried out in accordance with the Conditions of Consent;
- c) it will obtain for the benefit of Council all available product and work warranties from any suppliers, contractors and subcontractors in respect of equipment and materials used in the development that encroaches on Council land, and assign such benefit to Council where the warranty is not in favour of Council.

The land owner must provide Council with a copy of its Certificate of Insurance on an annual basis so that Council can satisfy itself that the land owner holds adequate public liability insurance in relation to the development that encroaches on Council land.

The encroaching owner is required to maintain public liability insurance of \$20 million, noting Council's interest on the Certificate of Currency.

(Reason: To ensure appropriate insurance is in place for development that encroaches on Council's land.)

***G. Prior to the Issue of an Occupation Certificate***

**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
  - a. in the road reserve must be fully completed; and
  - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

**Damage to Adjoining Properties**

- G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

**Compliance with Certain conditions**

G3. Prior to the issue of any Occupation Certificate, Condition C7, C8 and F10 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

***I. On-Going / Operational Conditions***

**Encroachment**

11. a) **Maintenance Responsibility**  
The Benefited Authority is responsible for the maintenance, repair and upkeep of the encroachment.

i) Owners Consent is required to undertake any additional works, other than general maintenance, to the encroachments.

b) **Costs**  
All associated costs in relation to the encroachment will be borne by the property owners of 47 Elamang Avenue, Kirribilli.

All other terms as Conditions are to be in accordance with the Encroachment Management Policy.

(Reason: To ensure consistency with the terms of this consent)

DATE OF DETERMINATION:

DATE FROM WHICH CONSENT OPERATES:

DATE CONSENT LAPSES:

**ADVISINGS**

**Notes**

(a) Council is always prepared to discuss its decisions, and in this regard please do not hesitate to contact Luke Donovan. However, if you wish to pursue your rights of appeal in the Land and Environment Court pursuant to Section 8.7 of the Act, you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing, and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.

- (b) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a modification under Section 4.55 of the Environmental Planning & Assessment Act 1979.

Please bear this in mind before preparing documentation in support of a Construction Certificate application. Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of the Environmental Planning & Assessment Act.

- (c) Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The review must be completed within six (6) months after the date of receipt of this Notice of Determination. If you intend to lodge a request for a review it is recommended that the request, together with payment of the appropriate fees, is lodged as early as possible in order to allow sufficient time for notification, assessment, reporting, etc, prior to the expiration of the 6 month review period. It is recommended that the applicant discuss any request for a review of the determination with Council Officers before lodging such a request.
- (d) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
- (i) Relevant approvals must be obtained under the provisions of Section 138 of the Roads Act, 1993 for any works on public roads which are not the subject of this consent.
  - (ii) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
  - (iii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
  - (iv) Council is to be notified at least two (2) days before the intention to commence building works, in accordance with Section 6.6 (2) (a) of the Act.
- (e) The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue necessary documentary evidence or certificate/s.

(f) **Sydney Water Requirements**

You are advised that any building works may also require prior approval from Sydney Water. Further details can be obtained from the Sydney Water website at [www.sydneywater.com.au](http://www.sydneywater.com.au).

(g) **Telecommunications**

Please consult a suitably qualified telecommunications company with a licence issued by the Australian Communications & Media Authority ([www.acma.gov.au](http://www.acma.gov.au) or 1800 226 667).

(h) **Dial before you dig**

Before you dig call “Dial before you dig” on 1100 (listen to the prompts) or further information on underground utility services for any excavation areas may be found on [www.1100.com.au](http://www.1100.com.au).

Council’s officers can provide these services, and further information, including a copy of the terms of agreement and fee schedule, can be obtained by telephoning Council’s Customer Service Centre on **9936 8100**.

*Please note that all building work must be carried out fully in accordance with the development consent and conditions of approval and it is an offence to carry out unauthorised building work or building work that is not in accordance with Council’s approval.*

*An offence under the Environmental Planning and Assessment Act 1979 and Regulations is subject to a penalty up to \$110,000 and \$11,000 respectively.*

*Council may also serve a notice and an order to require the demolition/removal of unauthorised building work or to require the building to be erected fully in accordance with the development consent.*

*On the spot penalties will be imposed for works which are carried out in breach of this consent, or without consent.*

*An amended development application is required to be submitted to and approved by Council, and a Construction Certificate is to be obtained from the Council or an Accredited Certifier, prior to commencement of any variations from the approved plans and conditions of approval.*

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Signature on behalf of consent authority  
ROBIN TSE  
A/TEAM LEADER (ASSESSMENTS)

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