

Original signed by Robyn Pearson on 8/9/2020

Date determined: 3/9/2020

Date operates: 3/9/2020

Date lapses: 3/9/2025

Margaret & Douglas Whitson
30 Macpherson Street
CREMORNE NSW 2090

D153/20
AB7 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION – Deferred Commencement**

Development Application Number: 153/20

Land to which this applies: 30 Macpherson Street, Cremorne
Lot No.: A, DP: 441850

Applicant: Margaret & Douglas Whitson

Proposal: Alterations and additions to dwelling.

**Determination of Development
Application:**

Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, deferred commencement has been granted, subject to conditions in the notice of determination.

Date of Determination: 3 September 2020

**Reason for Deferred
Commencement:**

The development application has been assessed against the relevant planning instruments and policies, in particular the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013, and generally found to be satisfactory.

Subject to recommended conditions to ensure the retention of the amenity of adjoining properties and the protection of significant trees, there would be no unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposal, given that the majority of the works are located at the rear of the dwelling and will be sympathetic to the subject dwelling, adjoining dwellings and the Montague Road Conservation Area. The proposed extensions are well below the maximum permitted height limit and are sympathetic additions to the dwelling. A reduction in the size of the deck will ensure that the existing significant site tree is retained and protected.

Consequently, it is considered that the proposed works as conditioned will provide additional resident amenity without negatively impacting the neighbourhood character of the locality and will not be highly visible from the public domain or adjoining properties.

The application is considered to be acceptable in the circumstances and it is recommended for approval subject to deferred commencement, standard and site specific conditions.

**Deferred Commencement Time
Frame:**

12 months

Date Lapsing:

3 September 2021

**How community views were taken
into account:**

The subject application was notified to adjoining properties and the Willoughby Bay Precinct Committee inviting comment and no submissions were received by Council. Nevertheless, appropriate conditions have been recommended to maintain residential amenity and protect significant trees, including the retention of the single significant tree on site. Furthermore, the proposed development would provide improved amenity for the residents without causing any unreasonable impacts to the streetscape and/or the amenity of adjoining properties.

**Review of determination and right of
appeal:**

Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. Within 6 months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER ASSESSMENTS

(i) Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the Act.

(ii) Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act* 1987 as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or ***AS/NZS*** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

NCC means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Council.

Court means the Land and Environment Court.

Local Native Plants means species of native plant endemic to North Sydney LGA.

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act* 1989.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

Principal Contractor for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

Professional Engineer has the same meaning as in the *NCC*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

NSLEP 2013 means *North Sydney Local Environmental Plan 2013*

NSDCP 2013 means *North Sydney Development Control Plan 2013*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** – Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

INDEX OF CONDITIONS

	Page No.
AA. <i>Deferred Commencement Conditions</i>	
AA1. Amended Landscape Plans	7
AA2. Arborist's Report	7
A. <i>Conditions that Identify Approved Plans</i>	
A1. Development in Accordance with Plans/documentation	8
A2. Plans on Site	8
A3. No Demolition of Extra Fabric	9
C. <i>Prior to the Issue of a Construction Certificate (and ongoing, where indicated)</i>	
C1. Dilapidation Report Damage to Public Infrastructure	9
C2. Sediment Control	9
C3. Waste Management Plan	10
C4. Colours, Finishes and Materials (Conservation Areas)	10
C5. Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement	11
C6. Tree Bond for Public Trees	11
C7. Protection of Trees	12
C8. Pruning of Trees	13
C9. Security Deposit/ Guarantee Schedule	13
C10. Root Mapping	13
C11. Weatherboards	14
D. <i>Prior to the Commencement of any Works (and continuing where indicated)</i>	
D1. Protection of Trees	14
D2. Protection of Public Trees	14
D3. Temporary Fences and Tree Protection	15
D4. Public Liability Insurance - Works on Public Land	15
D5. Commencement of Works Notice	16
E. <i>During Demolition and Building Work</i>	
E1. Cigarette Butt Receptacle	16
E2. Parking Restrictions	16
E3. Road Reserve Safety	16
E4. Temporary Disposal of Stormwater Runoff	17
E5. Removal of Extra Fabric	17
E6. No Work on Public Open Space	17
E7. Developer's Cost of Work on Council Property	17
E8. No Removal of Trees on Public Property	17
E9. Protection of Trees	17
E10. Special Permits	18
E11. Construction Hours	19
E12. Prohibition on Use of Pavements	20
E13. Plant & Equipment Kept Within Site	20

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

F1.	National Construction Code	20
F2.	Home Building Act	20
F3.	Appointment of a Principal Certifier (previously known as a PCA)	21
F4.	Construction Certificate	21
F5.	Occupation Certificate	21
F6.	Mandatory Critical Stage Inspections	21
F7.	Demolition	22
F8.	Protection of Public Places	22
F9.	Site Sign	22

G. Prior to the Issue of an Occupation Certificate

G1.	Infrastructure Repair and Completion of Works	23
G2.	Damage to Adjoining Properties	23
G3.	Utility Services	23
G4.	Certification of Tree Condition	23
G5.	Unpaved Verge	24
G6.	Compliance with Certain conditions	24

AA. *Deferred Commencement Conditions*

This consent shall not operate until the following deferred commencement condition(s) has/have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent. This consent will lapse in accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under clause 95(6) of the Environmental Planning and Assessment Regulation 2000, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 97 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

Amended Landscape Plans

AA1. The lodged plans listed in Condition A1 must be amended to show the following:

- a) The *Melaleuca bracteata* (8m) tree planted on the southern boundary within the rear setback of 30 Macpherson Street must be retained. The rear deck extension is to be amended by increasing the setback from the western boundary of the subject site for the south-western corner section of the deck so that the tree lies outside the proposed footprint of the deck. Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of footings and piers within the Tree Protection Zone of this tree must be noted on the revised plans. No roots greater than 40mm shall be permitted for removal without prior notification to and permission of Council. No more than 10% of canopy shall be removed. Marked up pictures detailing exactly which branches are to be pruned shall be provided to and approved by council before any pruning shall be permitted must be included in the documentation.

The applicant must submit architectural plans complying with the requirements of this consent for the written approval of Team Leader (Assessments).

(Reason: To ensure the retention and protection of significant trees)

Arborist's Report

AA2. A report must be prepared by a suitably qualified arborist detailing the measures to retain and protect the 1 x *Melaleuca bracteata* (8m) tree planted on the southern boundary within the rear setback of 30 Macpherson Street.

The arborist report must include a detailed Tree Protection Management Plan for all stages of work (demolition/excavation/construction) and sensitive construction techniques required to be carried out within the TPZ of this tree, including hand excavation, pier and beam construction, and flexible location of footings and piers within the Tree Protection Zone of this tree.

The applicant must submit the report and architectural plans complying with the requirements of this consent for the written approval of Team Leader (Assessments).

(Reason: To ensure the retention and protection of significant trees)

This consent shall not operate until such time as the written approval stating that the requirements of these conditions have been satisfied.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

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.

Drawing No.	Title	Drawn by	Dated	Issue	Received
1B	Site Plan/Site Analysis Plan	Thorsette Pty Ltd	August 2020	B	10/08/2020
4B	Proposed Floor Plan	Thorsette Pty Ltd	August 2020	B	10/08/2020
5B	Proposed North/West Elevation	Thorsette Pty Ltd	August 2020	B	10/08/2020
6B	Proposed Part South Elevation/ Section A-A	Thorsette Pty Ltd	August 2020	B	10/08/2020
8B	Landscape Plan	Thorsette Pty Ltd	August 2020	B	10/08/2020

(Note: The final drawing numbers and associated details in this condition are subject to further updates to reflect the changes required by the relevant deferred commencement conditions)

(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)

Sediment Control

- C2. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils & Construction* (4th edition, Landcom, 2004) commonly referred to as the “Blue Book” or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

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

- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

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 and materials shall be complimentary to the architectural style of the original building and sympathetic to the character of the Conservation Area. The exterior colours shall match the existing exterior colour scheme, or, any new scheme shall use either a traditional Federation style colour scheme or a neutral scheme that is sympathetic to the Federation style of the dwelling.

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 \$2,500 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)

Tree Bond for Public Trees

- C6. Prior to the issue of any construction certificate, security in the sum of \$5,000 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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 but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree Species	Location	Bond
1 x <i>Schinus molle</i> (6x10m)	Council verge on the Richmond Avenue frontage outside 30 Macpherson Avenue	\$3,500
2 x <i>Magnolia x soulangiana</i> (3m)	Council verge on the Richmond Avenue frontage outside 30 Macpherson Avenue	\$1,500 (\$750 each)

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Protection of Trees

C7. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height
1 x <i>Schinus molle</i>	Council verge on the Richmond Avenue frontage outside 30 Macpherson Avenue	6x10m
2 x <i>Magnolia x soulangiana</i>	Council verge on the Richmond Avenue frontage outside 30 Macpherson Avenue	3m
1 x <i>Callistemon viminalis</i>	Council verge at the eastern end of Richmond Avenue	4m
1 x <i>Olea europaea</i> subsp. <i>africana</i>	Council verge at the eastern end of Richmond Avenue	5m
1 x <i>Melaleuca bracteata</i>	Southern boundary within the rear setback of 30 Macpherson Street	8m

Plans and specifications complying with this condition must 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, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Pruning of Trees

- C8. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Tree	Location	Height
1 x <i>Melaleuca bracteata</i>	Southern boundary within the rear setback of 30 Macpherson Street	8m

The Certifying Authority must ensure that the details submitted fully satisfy the requirements of this condition. The species planted, when mature, shall be compliant with AS 1926 1-2012.

No more than 10% of canopy shall be removed. Only branches nominated in marked up pictures approved by council shall be permitted. A report detailing the measures to be employed during construction shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. All measures required by the said report must be complied with at all times in the carrying out of the development.

(Reason: To ensure the protection and longevity of existing significant trees)

Security Deposit/ Guarantee Schedule

- C9. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$5,000.00
Footpath Damage Bond	\$2,500.00
TOTAL BONDS	\$7,500.00

The security required by the above schedule 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.

(Reason: Compliance with the development consent)

Root Mapping

- C10. Non-invasive/non- destructive root mapping is to be undertaken within the tree protection zone (TPZ) (identified as per AS4970-2009) of the *Melaleuca bracteata* (8m) located within the southern boundary-rear setback of 30 Macpherson St to determine the size and depth of the tree roots prior to the design of the required footings and piers for proposed construction.

Root mapping is to be undertaken under the direct supervision of an AQF level 5 arborist. The said consulting/project arborist is to prepare a written report, with images, addressing the following:

- a) Describing the results of the root mapping
- b) Providing an assessment of potential tree impacts of the excavation; and
- c) Making recommendations of protection measures to be implemented for the duration of excavation and construction activity to ensure the ongoing health and viability of the tree.

The report is to be provided to the Certifying Authority for approval (with a copy provided to Council) prior to the issue of any Construction Certificate. Plans and specifications submitted to the Certifier for approval must comply with the recommendations of the arborist report referred to in this condition, and the development must be carried out in accordance with the said report.

(Reason: To ensure the protection of significant trees)

Weatherboards

- C11. The weatherboard cladding is to be natural timber weatherboard or composite material cladding equal to 'Scyon Linear' cladding, with traditional profile and paint finish, 16mm thick and 180mm wide, laid in a horizontal pattern. No approval is given for any other type of artificial weatherboards, or fibre cement cladding except for the single-storey Living Room addition at the rear of the dwelling which is documented as vertical fibre cement cladding.

(Reason: To ensure the use of materials are consistent with and sympathetic to the character of the conservation area)

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

Protection of Trees

- D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites).

A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Protection of Public Trees

- D6. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Protection
1 x <i>Schinus molle</i>	Council verge on the Richmond Avenue frontage outside 30 Macpherson Avenue	1.8m high steel mesh tree protection fencing
2 x <i>Magnolia x soulangiana</i>	Council verge on the Richmond Avenue frontage outside 30 Macpherson Avenue	1.8m high steel mesh tree protection fencing
1 x <i>Callistemon viminalis</i>	Council verge at the eastern end of Richmond Avenue	1.8m high steel mesh tree protection fencing
1 x <i>Olea europaea</i> subsp. <i>africana</i>	Council verge at the eastern end of Richmond Avenue	1.8m high steel mesh tree protection fencing

Plans and specifications complying with this condition must 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, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Protection of existing environmental and community assets)

Temporary Fences and Tree Protection

- D7. All protected trees on-site that are specifically nominated as per **Condition C7** to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown in the schedule hereunder, must be installed to the satisfaction of the Certifying Authority prior to demolition or commencement of any works and must be maintained for the duration of the works.

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance – Works on Public Land

- D8. 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

- D9. 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)

Temporary Disposal of Stormwater Runoff

- E4. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E5. 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)

No Work on Public Open Space

- E6. No work can be undertaken within adjoining public lands (i.e. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

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)

No Removal of Trees on Public Property

- E8. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

- E9. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- 1) If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- 2) An application to modify this consent pursuant to Section 96 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Special Permits

E10. 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

E11. 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)

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.

(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)

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)

Utility Services

G3. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

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

Certification of Tree Condition

G4. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the trees specifically nominated below:

Tree	Location	Height
1 x <i>Schinus mole</i>	Council verge on the Richmond Avenue frontage outside 30 Macpherson Avenue	6x10m
2 x <i>Magnolia x soulangeana</i>	Council verge on the Richmond Avenue frontage outside 30 Macpherson Avenue	3m
1 x <i>Callistemon viminalis</i>	Council verge at the eastern end of Richmond Avenue	4m
1 x <i>Olea europaea</i> subsp. <i>africana</i>	Council verge at the eastern end of Richmond Avenue	5m
1 x <i>Melaleuca bracteate</i>	Southern boundary within the rear setback of 30 Macpherson Street	8m

The report must detail the condition and health of the nominated trees upon completion of the works and shall certify that the trees have not been significantly damaged during the works on the site and have reasonable prospects for survival.

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

Unpaved Verge

G5. The unpaved verge area must be constructed/reconstructed with an appropriate species of grass prior to completion of the works at no cost to Council

(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

Compliance with Certain conditions

G6. Prior to the issue of any Occupation Certificate, Conditions C7, C10 and C11 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)