

REPORT TO APPLICATION DETERMINATION PANEL
Meeting held on 21 October 2014

5 Seaview Parade Collaroy – Report in respect of Court Orders regarding Window W10

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2012/1440 and MOD2013/0085
Assessment Officer:	Deborah Laidlaw (External Consultant – Laidlaw Mason Partners)
Land to be developed (Address):	Lot 6 DP 6952, 5 Seaview Parade COLLAROY NSW 2097
Proposed Development:	Report in respect of Court Orders regarding Window W10
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	N/A
Consent Authority:	Warringah Council
Land and Environment Court Action:	Yes
Owner:	Joy Wilma Lillian Lambert Barry Martin Lambert
Applicant:	Chateau Constructions Aust Ltd
Application lodged:	DA2012/1440: 29/11/2012 MOD2013/0085: 05/06/2013
Application Type:	Local
State Reporting Category:	Residential - Single new detached dwelling
Notified:	05/09/2014 to 19/09/2014
Advertised:	Not Advertised
Submissions:	2 submissions from one address
Recommendation:	Revoke development consent DA2012/1440 and grant new development consent with amended conditions.
Estimated Cost of Works:	\$3,997,951 for DA2012/1440

ASSESSMENT INTRODUCTION

On 22 August 2014 the Land and Environment Court of NSW in Proceedings No. 40208 of 2014 made an order pursuant to Section 25B(1)(a) of the Land and Environment Court Act 1979 suspending that part of Development Consent No. DA2012/1440 granted by the Council on 19 March 2013 as modified by MOD2013/0085, relating to the treatment of window W10 as shown on plans no. DA02 D and DA03 C prepared by Chateau Architects + Builders dated 5 and 6 February 2013.

Council's Deputy General Manager exercised his discretion to refer the matter to the Application Determination Panel (ADP) for assessment and determination. He also

requested that the matter be assessed and reported upon by different officers than those who originally assessed the development.

The matter was therefore referred to an external planning consultant – Deborah Laidlaw of Laidlaw Mason Partners. Deborah Laidlaw has assessed the development with respect to Window W10 and provided an assessment report including recommended conditions of consent. The consultant's assessment report is attached to this report.

SITE DESCRIPTION

Property Description:	Lot 6 DP 6952 , 5 Seaview Parade COLLAROY NSW 2097
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Location Map



NOTIFICATION & SUBMISSIONS RECEIVED

On 22 August 2014 the Court made orders for the re-notification of the development application. The method of re-notification was required to be as follows:

- i. "A written notice is to be sent by ordinary prepaid post to 7 Seaview Parade, Collaroy.
- ii. The notification period is 14 days and is to commence three days after the written notice was sent by Council.
- iii. The written notice was to include the following advice:
 - A. identification of the land, including the complete address of all street frontages and lot numbers;
 - B. a description of the development;
 - C. an A4 size copy of the plans;
 - D. the place and times the application can be inspected;
 - E. the closing date for submissions;
 - F. a statement that submissions will be disclosed to any person requesting information under the applicable legislation."

The requisite information was notified in accordance with the above conditions. The letter was sent by Council to 7 Seaview Parade on 2 September 2014, and the notification period therefore lasted from 5 September 2014 until 19 September 2014. The notification letter, including notification plans, is attached to this report.

As a result of the notification process Council is in receipt of 2 submissions from:

Name:	Address:
Merson Pty Ltd – on behalf of Mrs Robyn de Gail and Mr Phil de Gail	6/20 Wylde Street, Potts Point, NSW 2011
Mrs Robyn de Gail and Mr Phil de Gail	7 Seaview Parade, Collaroy, NSW 2097

The concerns raised in the submissions have been addressed in the attached assessment report by Deborah Laidlaw.

Deborah Laidlaw has recommended conditions to be imposed as a result of her assessment. These conditions are included under new Condition 1A in the Recommendation of this report.

RECOMMENDATION

In accordance with the requirements of s.103 of the Environmental Planning and Assessment Act 1979 and the suspension of that part of the Development Consent no. DA2012/1440 as modified by MOD2013/0085, relating to the treatment of window W10 by the Land and Environment Court in accordance with s.25B(1)(a) of the Land and Environment Court Act 1979 it is recommended:

- 1) That Council revoke Development Consent no. DA2012/1440; and
- 2) That Council grant a new development consent subject to the original conditions of consent for Development Consent No. DA2012/1440 for Demolition works and construction of a dwelling house and fence on land at Lot 6 DP 6952, 5 Seaview Parade, COLLAROY, as modified in accordance with MOD2013/0085, and as further modified by the conditions recommended by Deborah Laidlaw, as set out below.

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 0C	5.2.13	Chateau Architects and Builders
DA02 0D	6.2.13	Chateau Architects and Builders

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA03 0C	5.2.13	Chateau Architects and Builders
DA04 0C	5.2.13	Chateau Architects and Builders

As modified by the following plans:

MODIFIED APPROVED PLANS – Endorsed with Council's Stamp		
Drawing No.	Dated	Prepared By
CC01 C (Amendment C)	3.5.13	Chateau Architects and Builders
CC06 B (Amendment B)	3.5.13	Chateau Architects and Builders
CC07 B (Amendment B)	3.5.13	Chateau Architects and Builders
CC08 B (Amendment B)	3.5.13	Chateau Architects and Builders
CC09 B (Amendment B)	3.5.13	Chateau Architects and Builders
CC11 C (Amendment C)	3.5.13	Chateau Architects and Builders
CC12 C (Amendment C)	3.5.13	Chateau Architects and Builders
CC13 B (Amendment B)	3.5.13	Chateau Architects and Builders
CC14 B (Amendment B)	3.5.13	Chateau Architects and Builders

Reports/ Documentation – All recommendations and requirements contained within:		
Report	Dated	Prepared By
Recommendations contained within the Coastal Engineering Advice report	28 November 2012	Royal HaskoningDHV
Recommendations contained within the Geotechnical Report	20 November 2012	JK Geotechnics
Recommendations contained within the Arboricultural Impact Assessment Report and Tree Management Plan	November 2012	Glenyss Laws Consulting Arborist

- b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.
- c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- d) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.
- e) The development is to be undertaken generally in accordance with the following:

Landscape Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA08 A (Amendment B)	14.11.12	Chateau Architects and Builders

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

1A. Privacy

The development is to be treated in the following manner to address privacy:

- (a) Window W10 is to remain unopenable and of fixed glazing.
- (b) The glazed face of window W10 is to be privacy treated from floor/sill level to a minimum height of 750mm above the adjoining floor level of RL 8.990.
- (c) A 1.2 metre wide privacy screen is to be attached to the western edge of window W10. The level of the bottom of the screen may be at the level of the adjoining living area (RL 8.990), or it may commence at a height of 750mm above that floor level. The top of the screen must be a minimum of 1.7 metres above the adjoining finished floor level or it may extend the full height of W10. The screen may be fixed across W10 or it may be openable. If it is openable it may open to an angle no more than 75 degrees relative to the face of W10.
- (d) The privacy treatment referred to in (b) and (c) above may take the form of:
 - I. Obscure glazing;
 - II. A louvre style system, providing that the louvres are fixed and do not permit a view into the first floor bedroom or swimming pool of No 7 Seaview Parade. In the case of an openable screen, this refers to any position at which the screen may be relative to the face of W10;
 - III. A perforated panel/obscure glazed panel system, providing that a maximum of 20% of the panel is 'clear' and that the perforations are spaced so as to provide effective screening of the adjoining property.
 - IV. A solid panel.

Reason: To protect the privacy of neighbours.

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the

development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. Prescribed conditions (Demolition)

- (a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (ii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Reason: Legislative Requirement (DACPLB09)

4. General requirements (Demolition):

- (a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) The applicant shall bear the cost of all works that occur on Council's property.
- (f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (g) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (h) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

5. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless

of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan Contribution based on a total development cost of \$3,997,951		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$37,981
Section 94A Planning and Administration	0.05%	\$1,999
Total	1%	\$39,980

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

7. Security Bond (Demolition)

A bond of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to demolition work commencing.

Reason: To ensure adequate protection of Council's infrastructure. (DACENZ01)

8. Bonds

(a) Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Councils Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE
CONSTRUCTION CERTIFICATE**

9. On-site Stormwater Absorption System Compliance Certification

Engineering plans detailing the provision of an On-site Stormwater Absorption System in accordance with Warringah Council's "Stormwater Drainage : From Low Level Properties" Policy, PDS-PL 136, Attachment 2 and Australian Standards AS3500.

The details are to be prepared by a suitably qualified and Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER-3).

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

10. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

11. Trees and / or Landscaping

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

- (a) Construction Certificate Plans
Where applicable the Construction Certificate plans must include reference to:
 - (i) Trees to be removed coloured or shaded in the colour red
 - (ii) Trees to be retained coloured or shaded in the colour green
 - (iii) Trees to be pruned coloured or shaded in the colour blue
 - (iv) Trees to be transplanted coloured or shaded in the colour yellow
- (b) Existing trees which must be retained
All trees not indicated for removal on Landscape Plan - Drawing Number DA08 B 14.11.12 prepared by Chateau Architects and Building dated 14.11.12
- (c) Tree Protection
 - (i) All tree protection measures are to be installed prior to commencement of works.
 - (ii) Tree protection is to be in accordance with the Arboricultural Impact Assessment Report and Tree Management Plan prepared by Glenyss Laws dated November 2012.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

12. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

13. Compliance with standards (Demolition)

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

Reason: To ensure the development is constructed in accordance with appropriate standards.

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

14. Privacy Screen - northern elevation of the first floor deck

A 1.65 metre privacy screen (measured from finished floor level) is to be erected on the northern elevation of first floor Deck which is located at the far north east corner of the dwelling, adjacent to the Lounge room, as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement in design of the approved development.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining / nearby property. (DACPLC06)

15. Sewer/Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. **Vehicle Crossings**

The provision of one vehicle crossing five metres wide in accordance with Warringah Council Drawing No A4-3330/1 Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

18. **Layback Construction**

A layback five metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

19. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

20. **Off-site disposal of contaminated material**

Any contaminated material removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with:

- *Protection of the Environment Operations Act 1997 (NSW); and*
- *Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).*

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: For protection of environment and human health and to ensure compliance with the legislation. (DACHPEDW1)

21. Requirement to notify about new Acid Sulfate Soils evidence

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

Reason: To protect the environment and private & public infrastructure (DACHPEDW2)

22. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLAEO3)

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

23. Authorisation of Legal Documentation Required for On-site Stormwater Detention or On-site Stormwater Absorption System

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineer's certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land. (DACENF01)

24. Registration of Encumbrances for On-site Stormwater Detention or On-site Stormwater Absorption System

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention or On-site Stormwater Absorption System as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF02)

25. Restriction as to User for On-site Stormwater Detention or On-site Stormwater Absorption System

A restriction as to user shall be created on the title over the on-site stormwater detention system or On-site Stormwater Absorption System, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure or On-site Stormwater Absorption System is not carried without Council's approval. (DACENF04)

26. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from

the development. (DACENF05)

27. On-Site Stormwater Detention or On-site Stormwater Absorption System Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system or On-site Stormwater Absorption System, certification from a consulting engineer and a “work as executed” (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure stormwater disposal is constructed to Council’s satisfaction. (DACENF10)

28. Positive Covenant for On-site Stormwater Detention/On-site Stormwater Absorption System

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure or On-site Stormwater Absorption System in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council’s standard requirements, (available from Warringah Council), at the applicant’s expense and endorsed by Warringah Council’s delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system or On-site Stormwater Absorption System. (DACENF12)

29. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the “Department of Lands”.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

30. Required Planting

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees	Species	Location	Pot Size
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Required.			
All trees	As indicated on Landscape Plan Dwg No. DA08 B dated 14.11.12 prepared by HSA	As indicated on the Landscape Plan	As indicated on the Landscape Plan

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)

31. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings. (DACPLF04)

32. Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLF08)

ATTACHMENTS

	2014/270361	Court ordered re-notification including plans	02/09/2014
	2014/290431	Submission Merson Pty Ltd	22/09/2014
	2014/312380	Submission Mr & Mrs de Gail	13/10/2014
	2014/311736	ADP Consultant Report	13/10/2014
	2013/081504	plan - DA02 D - amended	19/03/2013
	2013/081556	Stamped approved plans – DA2012/1440	19/03/2013
	2013/219322	Stamped approved plans – MOD2012/1440	25/07/2013
