



BSC File No:4580D x 10.2004.570.1/#494361
Contact Name: Mr P I Montgomery

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
issued under the
Environmental Planning and Assessment Act, 1979 Section 81(1)(a)

Development Application No. 10.2004.570.1

20 December 2004

Applicant's Name and Address

Denis Holland Architect
PO Box 1197
PALM BEACH QLD 4221

Land to be developed: LOT: 13 SEC: 50 DP: 758207, 43 Browning Street BYRON BAY

Proposed development: Alterations & Additions to Existing Two (2) Storey Dwelling-House

Building Code of Australia building classification: 1a and 10a

Determination

Made on: 16 December 2004

Determination: **Consent granted subject to conditions described below**

Consent to operate from: 20 December 2004

Consent to lapse on: 20 December 2009

Details of Conditions

Parameters of this Consent

1. Development is to be in accordance with approved plans

The development is to be in accordance with the four (4) plans, numbered WD01 dated 09/09/04 and WD 02,04 and 05 dated 10/10/04 as modified by any conditions of this consent.

The development is also to be in accordance with any changes as shown in red ink on the approved plans. The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.



2. Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989

- a) All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
- b) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force.

This condition does not apply to:

- i) the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188 (4).
- ii) the erection of a temporary building.

3. Integrated Approvals

The following approvals are provided under Section 78A of Environmental Planning and Assessment Act:

Integrated Approvals under Section 68 of the Local Government Act 1993

- Carrying out water supply work
- Carrying out sewer connection work
- Carrying out stormwater work

4 Plumbing Standards and requirements.

All Plumbing, Water Supply and Sewerage Works shall be installed and operated in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.

In accordance with the Local Government Act and the NSW Code of Practice for Plumbing and Drainage your plumber must obtain a **Plumbing Permit** at least two (2) working days prior to commencing work.

The following conditions are to be complied with prior to issue of a Construction Certificate

5 Plans of retaining walls and drainage

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

Such plans and specifications must be approved as part of the Construction Certificate



6 Stormwater disposals on-site

The application for a Construction Certificate is to include plans and specifications that indicate disposal of stormwater via an on-site storm water infiltration trench consisting of a minimum of one cubic metre of coarse gravel (40-50mm) per 50m² of roof and collected hardstand areas. The pit is to be totally encased in a geofabric and located to ensure maximum solar exposure and avoidance of vehicular traffic or easement/s. Stormwater is to be delivered into the upper portion of the pit via a perforated inlet pipe. The trench must be designed to be contiguous with the site contours. Stormwater overflow must not be directed in a concentrated flow onto any adjoining property.

Alternatively, the infiltration area can be designed:

- By a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.
- With a safety factor of 2 to allow for any long-term deterioration in infiltration rate.
- In accordance with the requirements of Section 9.4 of the NSW Department of Housing manual, Managing Urban Stormwater – Soils and Construction.
- With percolation tests on the site in accordance with Appendix 4.1F of A.S. 1547:2000, On-site Domestic-wastewater management.

Such plans and specifications must be approved as part of the Construction Certificate.

7 Driveway details required

The application for a Construction Certificate is to include plans and specification that indicate vehicular access from the site boundary to the proposed car space(s). Vehicular access must be in accordance with AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking.1Plans are to include the following items:

- a) pavement description (grades exceeding 15% must be sealed);
- b) site conditions affecting the access; and
- c) existing design levels;

The following conditions are to be complied with prior to commencement of building works

8 Residential building work

Building work that involves 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:

- a) in the case of work to be done by a licensee under that Act:
 - i. has been informed in writing of the licensee's name and contractor licence number, and
 - ii. is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
- b) in the case of work to be done by any other person:
 - i. has been informed in writing of the licensee's name and contractor licence number, and



- ii. has been informed in writing of the person's name and owner-builder permit number, or
- iii. has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: The amount referred to in paragraph (b) (ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was Gazetted, that amount was \$3,000. As those regulations are amended from time to time, so that amount may vary.

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.

9 Erosion & sediment measures

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A summary of these guidelines is attached. A full copy may be downloaded from Council's web site at www.byron.nsw.gov.au. Particular attention is to be given to the provision of the following sediment and erosion control measures:

- Temporary driveway from the edge of road to the building site
- Temporary downpipes immediately that the roof has been erected
- Silt fence or sediment barrier

Additionally the enclosed sign, to promote the awareness of the importance of maintenance of sediment and erosion controls, is to be clearly displayed on the most prominent sediment fence or erosion control device for the duration of the project.

Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.

10 Site construction sign required

A sign or signs are to be erected at the frontage to the site that includes:

- The name and address and contact number of the builder or prime contractor, and
- The words "No unauthorised entry to site".

The sign is to be maintained until all works are completed. No sign is to have an area in excess of one (1) m².

The following conditions are to be complied with during construction

11 Compliance Certificates required

Compliance Certificates are to be issued by the Certifying Authority certifying that:

- a. All site management measures are in place; the building is correctly sited on the site and footings and concrete slabs have been constructed in accordance with the approved plans and relevant Australian Standards;



- b. Structural Framing has been completed, wind bracing, and tie downs; wet areas have been waterproofed in accordance with AS 3740.
- c. The development has been completed in accordance with the development consent and construction certificate.

12 Stormwater drainage work

Stormwater shall be collected and disposed of in a controlled manner in accordance with the approved plans. All drainage works are to be installed by a suitably qualified person and in accordance with the requirements of AS/NZS 3500.3:2003 - Plumbing and drainage, Part 3: Stormwater drainage.

13 Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface

14 Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- d. Monday to Friday, from 7 am to 6 pm.
- e. Saturday, from 8 am to 1 pm.
- f. No construction work to take place on Sundays or Public Holidays.

15 Construction noise

Construction noise is to be limited as follows

- g. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- h. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

16 Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

17 Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

The following conditions are to be complied with prior to occupation

18 Works to be completed.

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, is to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate. The bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.



19 Internal driveway in accordance approved plans

A driveway is to be constructed from the property boundary to the proposed car space(s) in accordance with the approved plans.

Notes

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au.

Principal Certifying Authority:

Work must not commence until the applicant has:-

- appointed a Principal Certifying Authority (if the Council is not the PCA); and
- given the Council at least two days notice of their intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Consent granted under the Roads Act 1993

The following works in the road reserve are granted consent pursuant to Section 138 of the Roads Act 1993.

- a) Gutter crossing and driveway from the kerb to the property boundary.

This consent is issued by Byron Shire Council, being the road authority, for the above proposed works and/or structures subject to the following conditions:

1. Gutter crossing and driveway are to be constructed in accordance with Council plan No 749/1 to 3.
2. All work is to be in accordance with Council's adopted standards.
3. Twenty four hours notice must be given for the following required inspections:
 - a) upon placing of all formwork and reinforcement, prior to pouring concrete, and
 - b) upon completion of all work.
4. All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The developer and/or contractor must produce evidence to Council of Public Liability Insurance cover for a minimum of \$10 Million prior to the commencement of any works. Council is to be named as a Principal in the policy. Council is not to be held responsible for any negligence caused by the undertaking of the works.

Please contact Council's Asset Acceptance Officer for the booking of inspections on (02) 6626 7075.



Reasons

1 To comply with the provisions of Byron L.E.P. 1988.

2 To preserve the amenity of the area.

To ensure compliance with the Roads Act 199

Are you dissatisfied with conditions of consent

If you are unhappy with conditions of consent discuss your concerns with the officer who dealt with your application. You may submit an application to Council to modify the consent under Section 96 of the Environmental Planning & Assessment Act, 1979. You may also request Council to review its decision under Section 82A of the Environmental Planning & Assessment Act, 1979. Such a request must be made within 12 months of the date of determination.

You will need to provide reasons why the conditions should be changed or deleted. You may lodge a Section 96 application at any time after the notice of determination. If you are not happy with Council's decision on your request for modification, then you may appeal to the Land & Environment Council within 60 days of the notification by Council.

Right of Review

You may request Council to review its decision under Section 82A of the Environmental Planning and Assessment Act, 1979. Such a request must be made within 12 months of the date of the determination, or if there is an appeal to the Land and Environment Court, up to the time when the court hands down its decision. In reviewing its decision Council is able to consider alterations to the above plans, provided that the Development Application remains substantially the same as the one for which the consent was originally sought, and the changes are publicly notified.

Right of Appeal

If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Signed on behalf of the Consent Authority

Yours faithfully

Paul Montgomery
Development Assessment Officer

