



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

Section 96 Consent No - 10.2010.134.2

8 February 2011

Built-Environment Practice
Attention: Chris Knapp
5/60 Ballina Street
LENNOX HEAD NSW 2478

Proposed modification: S96 - Minor alterations to existing dwelling and delete swimming pool (Alteration/Additions to existing single storey dwelling including new carport and pool)

Land to be developed: LOT: 18 SEC: 11 DP: 11632, 100 Alcorn Street SUFFOLK PARK

Development Application No.: 10.2010.134.1

DETERMINATION:

Made on: 3 February 2011

Determination: **Approved subject to the following conditions**

Amended conditions

1. **Development is to be in accordance with approved plans**
The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
04	Site Plan	Built Environment Practice	11/01/2011
06	Floor plan		
07	Roof Plan		
08	North & South Elevations		
09	West & East Elevations		
10	Sections		

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

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.

Enclosed for your information is the amended plan (where applicable) and consent.

Please note that modification of this consent under Section 96 of the Environmental Planning and Assessment Act may require amendment to any Construction Certificate for this development (if a Construction Certificate has been previously issued). It is recommended that you check with your Principal Certifying Authority.

Yours sincerely

Christopher Soulsby
Development Assessment Officer

Encl. Modified Consent No. 10.2010.134.1

AMENDED CONSENT 3 February 2011



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the

Environmental Planning and Assessment Act, 1979 Section 81(1)(a)

Development Application No. 10.2010.134.1

17 May 2010

Built-Environment Practice
23 Toongahra Circuit
GOONELLABAH NSW 2480

Land to be developed: LOT: 18 SEC: 11 DP: 11632
100 Alcorn Street SUFFOLK PARK

Development: Alteration/Additions to existing single storey dwelling including new carport and pool.

DETERMINATION:

Made on: 14 May 2010

Determination: **Consent granted subject to the attached schedule of conditions**

Consent to operate from: 17 May 2010

Consent to lapse on: 17 May 2015

Other approvals: Stormwater - 55.2010.134.1,
Water and Plumbing - 60.2010.134.1
Roads Act – 51.2010.134.1

IMPORTANT INFORMATION with regard to your consent

The Environmental Planning and Assessment Act 1979 requires you to:

1. Obtain a **Construction Certificate** prior to the commencement of any building works as required by conditions of this consent. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate. Additional fees are payable for this application.
2. Nominate a **Principal Certifying Authority** (PCA) which may be either Council or an accredited certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement.
3. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement. Additional fees are payable for this application.

S c h e d u l e o f C o n d i t i o n s

Parameters of this Consent

1. Development is to be in accordance with approved plans

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
04	Site Plan	Built Environment Practice	11/01/2011
06	Floor plan		
07	Roof Plan		
08	North & South Elevations		
09	West & East Elevations		
10	Sections		

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

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 the Home Building Act 1989

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia ,
 - (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 before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:
 - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

3. Erection of signs

- (1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) 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:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) 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

- (c) stating that unauthorised entry to the work site is prohibited.
- (3) 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.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

4. Notification of Home Building Act 1989 requirements

- (1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989 .
- (2) 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:
- (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,
- (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.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) 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.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

5. Concurrent Approvals

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

Concurrent Approvals under Section 68 of the Local Government Act 1993

Part B Water supply, sewerage and stormwater drainage work

B1 Carrying out water supply work

- B4 Carrying out sewerage work
- B5 Carrying out stormwater drainage work

Concurrent Approvals under Section 138 of the Roads Act 1993

- A sealed/concrete driveway from the edge of road seal through to the property boundary.

These works must be carried out to the satisfaction of Byron Shire Council and can not be assessed for the purpose of compliance, or otherwise deemed acceptable by a private certifier.

6. Coastal Erosion

The development (additions/alterations) must cease if at any time the coastal erosion escarpment comes within 50 metres of any building associated with this development. The buildings and works used in connection with the development must be removed immediately to an approved location by the owner of the land. The owner must return the landform of the subject land to the predevelopment state and suitably revegetate the land.

In this condition coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Note: at the end of a storm the escarpment may be nearly vertical; as it dries out, the escarpment slumps to a typical slope of 1 vertical to 1.5 horizontal.

The following Conditions are to be complied with prior to issue of a construction certificate

7. Stormwater On-Site Disposal Approval Required

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 designed to be contiguous with the site contours. Stormwater overflow must not be directed in a concentrated flow onto any adjoining property.

Alternative approved designs will be also considered.

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

NOTE: The plans must be in compliance with Council's DCP 2002 Part N and Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

8. Bond required to guarantee against damage to public land

A bond of **\$1000** is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repared to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

9. S.88E Restriction to be placed on title – Coastal erosion

Documentary evidence is to be provided to the Principal Certifying Authority that a restriction-as-to-user, pursuant to the provisions of S.88E of the Conveyancing Act, 1919, has been placed on the title to the land, the subject of this consent, stating:-

*The development granted via development consent number **10.2010.134.1** must cease if at any time the coastal erosion escarpment comes within 50 metres of the building subject of the consent. The development the subject of this consent must be demolished and removed immediately. Further the landowner must suitably revegetate the land.*

In this restriction coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

10. Roads Act Approval Fees

Approval has been granted with this consent (Council reference No: 51.2010.134.1) for the following works within the road reserve:

- a) Driveway within the road reserve of Alcorn Street.;

A discounted fee of **\$280.00** (current to the date of Council's fees and charges) is to be to be paid prior to issuing of a Construction Certificate.

These payments may be made at Council's Administration Office, Station Street, Mullumbimby. Cheques are to be made payable to 'Byron Shire Council'. This fee is in accordance to Council's fees and charges and is subject to change each financial year.

11. Building materials and colours to be specified

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Section C3.1 of Council's Development Control Plan 2002.

Please note that colours must be non-reflective earth tone colours and that the use of white and near white colours on the roof is not permissible where it is likely to be intrusive. Such plans and specifications must be approved as part of the Construction Certificate.

12. Streetscape planting

As a result of the reduced setback for this development, the area within the front setback will be required to be landscaped to reduce the impact of the development on the streetscape.

The plans submitted for approval of the Construction Certificate should indicate a minimum of two trees being planted within this area. The trees must be native species endemic to the area and capable of reaching a height of 5m.

13. Compliance with Basix Certificate requirements

The development is to comply with Basix Certificate No A80454, dated 30/03/2010. The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the energy efficiency measures may be undertaken without the issue of an amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed colours must be consistent with the provisions of Section C3.1 of Council's Development Control Plan 2002. Note that white colours are not permissible.

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

14. Long Service Levy to be paid

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at www.lspc.nsw.gov.au or at Council's Administration Office, Station Street, Mullumbimby. Where paying to Council, cheques are to be made payable to 'Byron Shire Council'.

For further information regarding the Long Service Payment please refer to the website above.

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

15. Erosion and Sediment measures

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

- a) Temporary driveway from the edge of road to the building site;
- b) Temporary downpipes immediately installed after the roof has been erected;
- c) Silt fence or sediment barrier.

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

Note: Council may impose on-the-spot fines for non-compliance with this condition. Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

16. Trees to be protected

Trees to be retained are to be protected by a fence so as to minimise disturbance to existing ground conditions within the dripline of the trees. The fence is to be constructed:

- with a minimum height of 1.2 metres,
- outside the dripline of the tree,
- of steel star pickets at a maximum distance of 2metres between pickets,
- using a minimum of 3 strands of steel wire,
- to enclose the tree, and
- with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter

The fence is to be maintained for the duration of the site clearing, preparation and construction works.

17. Demolition work

Demolition work, including the removal of asbestos and lead-contaminated wastes, must be carried out in accordance with Australian Standard 2601 – 2001 *Demolition of Structures*, NSW Work cover Authority requirements and NSW EPA *Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes*. The applicant/owner is to produce documentary evidence that this condition has been met. Council

requires 48 hours notice prior to disposal of any asbestos and lead-contaminated waste at Council's waste depot.

The following Conditions are to be complied with during construction

18. Construction times

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

- a) Monday to Friday, from 7 am to 6 pm.
- b) Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

19. Construction Noise

Construction noise is to be limited as follows:

- a) 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).
- b) 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)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

20. 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.

21. 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.

The following Conditions are to be complied with prior to occupation of the building

22. Works to be completed prior to issue of an Occupation Certificate

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 a Final Occupation Certificate.

Any Security 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.

23. Internal driveway in accordance approved plans

A driveway is to be constructed from the property boundary to the proposed car spaces in accordance with the approved plans.

24. Stormwater disposal

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a) Clear of buildings and infrastructure,
- b) Not concentrated so as to cause soil erosion,
- c) Not onto adjoining land.

The following conditions will need to be complied with at all times

25. Restriction on further work in Precinct 3 of the Coastal Erosion Zone

Subsequent to any approval for a relocatable dwelling being given, no works must be carried out on the property that might hinder the ready relocation of the building. Such works might include the construction of walls, fences, screens, enclosures, brick veneering, landscaping and the fixing of joints or structural members by welding or other means, any of which might hinder the relocation.

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:-

- 1) appointed a Principal Certifying Authority (if the Council is not the PCA); and
- 2) 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'.
- 3) notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

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.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

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 sealed/concrete driveway from the edge of road seal through 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) The driveway is to be constructed in accordance with Council's current “Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings”.
- 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 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 prevent unlawful obstruction of the adjacent public road.
- 3 To preserve the amenity and traffic safety of the area.
- 4 To ensure compliance with the Roads Act 1993.

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 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

Christopher Soulsby
Development Assessment Officer