



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

Development Application No. 10.2010.262.1

17 August 2010

Mr M Simmons
C/- Paul De Fina
PO Box 282
BANGALOW NSW 2479

Land to be developed: LOT: 15 DP: 790776
73 Parkway Drive EWINGSDALE

Development: Use of unauthorised dwelling and construction of carport

DETERMINATION:

Made on: 16 August 2010

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

Consent to operate from: 17 August 2010

Consent to lapse on: 17 August 2015

Other approvals: Not Applicable

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.

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:
DA.01	Site Plan	Light Touch Design	May 2010
DA.03	B1 Plans/Section	Light Touch Design	May 2010
DA.04	B1 B1 Elevations	Light Touch Design	May 2010
DA.05	B2 Plans/Section/Elevation	Light Touch Design	May 2010
DA.06	B3 Plan/Section	Light Touch Design	May 2010
DA.07	B3 Elevation	Light Touch Design	May 2010
DA.08	Linking Structures-Plan	Light Touch Design	May 2010
DA.09	Linking Structures-Sections/Elevations	Light Touch Design	May 2010
DA.010	Carport Details	Light Touch Design	May 2010

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 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) Use of the buildings.

The buildings identified as B1, B2 & B3 are approved as part of a single dwelling and may only be used collectively as a single occupancy.

6) Rainwater tanks

Where rainwater tanks are provided, they must be installed in accordance with the “*NSW Code of Practice, Plumbing & Drainage, 1 July 2006*” and *AS/NZS 3500 Parts 0-5*.

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

7) Building Certificate required.

Prior to the issue of a Construction Certificate, a Building Certificate is to be obtained for the building works that is the subject of this application. The following information may be required:

- a) An updated surveyors report has been submitted showing the property boundaries and all works, as constructed on the property.
- b) A report by an appropriately qualified structural engineer certifying compliance with the structural elements as required by the relevant parts of the Building Code of Australia.
- c) A certificate from licensed pest controller indicating that the works have been treated against termites as per AS3660.1 or demonstrated compliance with a non-chemical system
- d) A certificate from a licensed glazier indicating that all glass in the unauthorised building is in accordance with AS1288.
- e) A licensed electrician's certificate certifying that the smoke alarm/s installed in the building is in accordance with AS3786 and that the electrical works comply with AS 3000 - 2000 “Wiring Rules”
- f) A certificate from a licensed installer certifying that wet area waterproofing is in accordance with AS3740.

8) Upgrade of existing On site Sewage Management Facility Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 for upgrade of the on-site effluent disposal must be obtained from Council prior to issue of a Construction Certificate. Such approval must be issued after the date of this consent. The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

9) Consent required for works within the road reserve

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's Specification for Engineering Works and are to provide for the following works:

- **Driveway (residential areas)**
 - A driveway(s) in accordance with Council's current “Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings”.
 - A bitumen seal from the edge of the road seal to the property boundary

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

10) Erosion & sediment measures

Where it is likely that erosion and sediment loss is likely to occur, suitable controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*.

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 during construction

11) 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.

12) 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.

13) 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.

14) Stormwater disposal

The roof water is to be disposed in a controlled manner. The point of disposal is to be via a rainwater collection tank and/or into the ground in a manner that will not destabilise the foundation of any buildings, initiate soil loss or be directed onto adjoining lands or land set aside for effluent disposal.

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

15) Works to be completed.

All of the works indicated on the plans and approved by this consent, including the up-grade of the on-site sewage management system, and 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.

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 Council's road/footpath reserve.

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

16) Approval to Operate required

In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website (www.byron.nsw.gov.au/download/?/files/Forms/On-Site_Sewage_Management_System_Approval_Operate.pdf).

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.

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.

NOTE: This clause does not relate to Integrated Development Applications, applications determined by the Joint Regional Planning Panel or applications previously considered under Section 82A of the Environmental Planning and Assessment Act 1979.

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

Kevin Bresnan
Development Assessment Team Leader