



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

**Development Application No. 10.2016.194.1**

Ms L Anning  
22 Balemo Drive  
OCEAN SHORES NSW 2483

Email: [lisa.elke1@bigpond.com](mailto:lisa.elke1@bigpond.com)

<b>Property description:</b>	LOT: 149 DP: 1206177 <b>12 Player Parade OCEAN SHORES</b>
<b>Development</b>	<b>Dwelling House and Swimming Pool</b>
<b>Determination</b>	<b>Consent granted subject to the attached schedule of conditions</b>
<b>Date determined:</b>	28 July 2016
<b>Consent to operate from:</b>	1 August 2016
<b>Consent to lapse on:</b>	1 August 2021
<b>Concurrent approvals:</b>	Roads Act (51); Water & Sewer (60)

**IMPORTANT INFORMATION**

**It is the responsibility of the applicant, landowner, builder, and any other contractors or agents involved with the development to read and understand all conditions of consent prior to commencing work.**

***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.

ALL COMMUNICATIONS TO BE ADDRESSED TO THE GENERAL MANAGER

PO Box 219 Mullumbimby NSW 2482 (70-90 Station Street)

Tel: 02 6626 7000 DX20007 Mullumbimby

Fax: 02 6684 3018 Email: [council@byron.nsw.gov.au](mailto:council@byron.nsw.gov.au)

Web [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au) ABN: 14 472 131 473

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## 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:
1516 – Issue I	Drawing List	Scott carpenter architect	04/02/2016
DA-01 – Issue I	Site Plan	Scott carpenter architect	04/02/2016
DA-02 – Issue I	Ground Floor Plan	Scott carpenter architect	04/02/2016
DA-03 – Issue I	North & East Elevations	Scott carpenter architect	04/02/2016
DA-04 – Issue I	South & West Elevations	Scott carpenter architect	04/02/2016
DA-05 – Issue I	Section A-A	Scott carpenter architect	04/02/2016
DA-06 – Issue I	Section B-B	Scott carpenter architect	04/02/2016
DA-07 – Issue I	Driveway Section	Scott carpenter architect	04/02/2016

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 109R 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 109R of the Act, to comply with the technical provisions of the State's building laws.

#### **5) 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*.

#### **6) Bushfire safety measures**

This land is identified as being designated bushfire prone land and Under S79B of the act, Council must be satisfied prior to making a determination for development on bushfire prone

land that the development complies with *Planning for Bush fire Protection 2006*. The development is approved subject to the following requirements:

### **Asset Protection Zones**

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

### **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

New construction shall comply with sections 3 & 5 (**BAL 29**) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

### **Landscaping**

All landscaping, is to comply with Appendix 5 'Landscaping and property Maintenance' under *Planning for Bushfire Protection 2006*.

**Note:** The conditions listed above will satisfy the requirements of 'Planning for Bush Fire Protection'. Any alternatives to the above may be carried out without the need to vary the development consent, provided such changes are certified by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment.

## **7) 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
- B2 Drawing water from a council water supply or a standpipe or selling water so drawn
- B3 Installing, altering, disconnecting or removing a meter connected to a service pipe
- B4 Carrying out sewerage work
- B6 Connecting a private drain or sewer with a public drain or sewer under the control of a council or with a drain or sewer which connects with such a public drain or sewer

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.

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

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**8) 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](http://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.

**9) Site Waste Minimisation and Management Plan**

Chapter 1: Part F of Byron Shire Development Control Plan 2010 (DCP 2010) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information [www.byron.nsw.gov.au/files/publications/swmmp\\_-\\_pro-forma-.doc](http://www.byron.nsw.gov.au/files/publications/swmmp_-_pro-forma-.doc)

**10) Compliance with Basix Certificate requirements**

The development is to comply with Basix Certificate No. **674908S\_02**, dated **29 February 2016**. 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 2010. Note that white colours are not permissible.

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

**11) Sediment and Erosion Control Management Plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

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

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

**12) Roads Act Approval**

Approval has been granted with this consent (Council reference No: **51.2016.194.1** for the following works within the road reserve:

- a) Driveway;

**Levels on plan number DA-07 shall to be modified to comply with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings"**

**13) Water and Sewerage**

The application for a Construction Certificate is to include:

- a) Floor wastes are to be provided in the laundry, bathrooms and powder room. (if showers are used as floor wastes, then minimum outlet size is DN80).
- b) Demonstrate that the retaining wall is not to be built over or within 1.5m of the outside of the sewer main (located at the site frontage). Refer to Byron Shire Policy 4.20.
- c) Maintain the minimum coverage of the sewer main.

The Builder is to provide plumber with BASIX Certificate to ensure requirements are met.

**14) Details of pool fence required**

The application for a Construction Certificate is to include plans and specifications that indicate the details of the fence around the swimming pool in accordance with the Swimming Pools Act 1992 and AS1926.1.

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

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

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**15) Erosion and Sediment Control Management Plan required**

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

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).

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

**16) Toilet facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet connected to a public sewer. or other approved system.

**17) Plumbing Standards and requirements.**

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. The changes made are from Plumbers and Drainage Regulation 2012 NSW Government.

- a) The licensee is to provide 24 hours notice and attend the site for the following **INSPECTIONS**, prior to covering of work. Inspections will be carried out a mutually convenient time:
  - i) Pre-start and Sediment Control;
  - ii) Internal Drainage;
  - iii) External Drainage;
  - iv) Water Rough In;
  - v) Fire Services;

- vi) Stackwork;
- vii) Final - all work completed. - \* Note below.
- b) A licensee is required to provide to Council and owner of the property after completion of the work and within 48 hours , **a Compliance Certificate and Sewer Services Diagram/ Works as Executed drawings.**

**Note:** Council will send each plumber proformas of these documents when the Notice of Work permit has been issued by Council to allow the plumber to commence works.

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**The following Conditions are to be complied with during construction**

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**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.

**22) Signs to be erected on building and demolition sites**

A sign must be erected in a prominent position on the work site:

- a) stating that unauthorised entry to the work site is prohibited, and
- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

**23) Stormwater drainage work**

Stormwater shall be collected and disposed of in a controlled manner. The point of disposal for stormwater from the roof of the dwelling shall be to the kerb and gutter in Player Parade via a suitably manufactured kerb adaptor. Drainage lines within the road reserve must be sewer

class or other approved equivalent. 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.

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**The following conditions are to be complied with prior to issue of a Final Occupation Certificate**

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**24) 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.

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.

**25) 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.

**26) Swimming pool fencing**

Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 192 and Regulations.

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**The following conditions are to be complied with at all times**

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**27) Pool Safety Sign**

The occupier of the premises must ensure that there is at all times a sign in the immediate vicinity of the swimming pool bearing the words 'Young children must be supervised when using this swimming pool'. The sign is to be a prominent position and be otherwise in accordance with clause 9 of the Swimming Pools Regulation.

A pool resuscitation sign is to be installed in a conspicuous location within the pool area to the satisfaction of the Principle Certifying Authority.

**28) Swimming pool pump location**

The filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining residents. If necessary an acoustic enclosure must be provided around the pump to achieve the required noise attenuation.

**29) Swimming Pool Fencing**

Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.

**30) Swimming pool backwash and overflow**

Pool overflow and backwash to discharge to the overflow relief gully.

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**Notes**

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**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](http://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.

### **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.

- 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'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 Local Approvals and Certification Officer for the booking of inspections on (02) 6626 7050.

### **Civil Works**

The civil works shall be designed and constructed in accordance with Council's Engineering Standard current at the time of submission of Engineering Plans for approval by Council. Approval of Engineering Plans will be current for a period of two years after which time Council may require the alteration to the Engineering Design to comply with standard current at that date.

### **Reasons**

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1. To comply with the provisions of Byron L.E.P. 2014.
2. To prevent unlawful obstruction of the adjacent public road.

3. To preserve the amenity and traffic safety of the area.
4. To ensure the potential impacts from flooding are minimised.
5. To ensure compliance with the Roads Act 1993.
6. To ensure the development is completed in accordance with conditions of consent and approved plans.
7. To preserve the environment and existing or likely future amenity of the neighbourhood.
8. To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of runoff from any buildings and paved areas that may be constructed on the land.
9. To ensure compliance with engineering standards.
10. To ensure adequacy of services to the development.
11. To ensure compliance with Section 68 of the Local Government Act 1993.

### **Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

### **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 Court within six (6) months 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 six (6) 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 six (6) months after the date on which you receive this notice.

**Signed on behalf of the Consent Authority**

Yours faithfully

Mr L J Munro  
Development Assessment Officer

*Dated: 1 August 2016*