



Warringah Council

## NOTICE OF DETERMINATION

**Application Number:** DA2008/1448

### APPLICATION DETAILS

**Applicant Name and Address:** N G Mcdonald, L N Mcarthur  
6 Moira Place  
FRENCHS FOREST NSW 2086

**Land to be developed (Address):** Lot 13 DP 1071450 6 Moira Place, Frenchs Forest

**Proposed Development:** Construction of a swimming pool

### DETERMINATION - APPROVED

**Made on (Date):** 26 November 2008

**Consent to operate from (Date):** 26 November 2008

**Consent to lapse on (Date):** 26 November 2011

### Details of Conditions

The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.

### NOTE:

If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.

Pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, Council has varied the provisions of Section 95(1) and advise that the consent will lapse 3 years from the date upon which the consent operates.

Section 95A of the Environmental Planning and Assessment Act 1979, allows for an extension of 1 year to the period in which the consent will lapse, except for complying development. Such an application must be made in accordance with Clause 114 of the Environmental Planning and Assessment Regulation 2000.



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## GENERAL CONDITIONS

### CONDITIONS THAT IDENTIFY APPROVED PLANS

#### 1. Approved Plans And Supporting Documentation

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Drawing Number	Dated	Prepared By
#031433 S01A- #ST11BL	Oct 08	Atlantis Pools
#031462/ S01- #ST10BL	Dec2007	Atlantis Pools

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Note: Further information on Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

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

#### 2. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**Reason:** *Prescribed - Statutory.*

#### 3. Bushfire Prone Areas

Construction shall comply with AS3959-1999 level 3 "Construction of Buildings in Bushfire Prone Areas".

The development is determined to be within the "Flame Zone". There is to be no exposed timber on the proposed pool structure within 10 metres of the existing dwelling.

All new fencing shall comply with RFS Development Control Services "Fact Fact 2/06"- Revised December 2007 (Release 4)

**Reason:** *Bushfire Safety.*



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

### 4. Development/Construction Security Bond

A bond (determined from cost of works) of \$500 must be deposited with Council and an inspection fee paid of \$200 prior to the issue of any Construction Certificate. This bond is to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

*Reason: To ensure adequate protection to Council infrastructure.*

### 5. Sydney Water Approval

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

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building/over Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating

Or telephone 13 20 92.

The Certifying Authority must ensure that a Quick Check agent/ Sydney Water has appropriately stamped the plans prior to the issue of any Construction Certificate.

*Reason: To ensure compliance with the statutory requirements of Sydney Water.*

### 6. Long Service Levy

Payment of the Long Service Levy is required prior to the release of the Construction Certificate. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work.

The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

*Reason: Prescribed - Statutory.*

### 7. Pool Access

Access to the pool shall be restricted by a child resistant barrier in accordance with the regulations prescribed in all relevant Acts, Regulations and Australian Standards. Details demonstrating compliance with these requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.



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Note: The following Acts, Regulations and Australian Standards applied at the time of determination:

- Swimming Pools Act 1992
- Swimming Pools Regulation 1998
- Australian Standard AS1926 Swimming Pool Safety
- Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

**Reason:** *To ensure the safety of children and make applicant aware of the need to comply with applicable pool fencing legislation.*

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 8. Excavation/Building Works

No excavation or building works shall be carried out until a Construction Certificate has been issued.

**Reason:** *To ensure compliance with statutory provisions.*

### 9. Notice of Commencement

At least 2 days prior to work commencing on site Council must be informed, by the submission of a Notice of Commencement in Accordance with Section 81A of the Environmental Planning and Assessment Act 1979 of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence.

**Reason:** *Legislative requirement for the naming of the PCA.*

### 10. Site Sign

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - (a) stating that unauthorised entry to the work site is prohibited;
  - (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- (2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This condition does not apply to building works being carried out inside an existing building.

*Reason: Statutory requirement.*

## **CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **11. Inner Protection Area**

At the commencement of building works, the entire property should be managed as an Inner Protection Area (IPA) as outlined within Planning for Bush Fire Protection 2006 and the Service's document "Standards for Asset Protection Zones".

The inner Protection Area should comprise of the following:

- Minimal fine fuel at ground level
- Vegetation that does not provide a continuous path to buildings for the transfer of fire
- Shrubs and trees that do not form a continuous canopy and vegetation is planted/cleared into clumps rather than continuous rows
- Species that retain dead material or deposit excessive quantities of ground fuel are avoided
- Shrubs and trees are pruned or removed so they do not touch or overhang the buildings
- Vegetation is located far enough away from buildings so that plants will not ignite the buildings by direct flame contact or radiant heat emission.

*Reason: Bushfire Protection.*

### **12. Installation and Maintenance of Sediment Control**

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Soils and Construction Manual Volume 1 - Managing Urban Stormwater. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised.

*Reason: To protect the environment from the effects of sedimentation and erosion from development sites.*

### **13. Prohibition on Use of Pavements**

No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without prior Council Approval.

*Reason: To ensure public safety and amenity on public land.*

### **14. Silt & Sediment Control**

Provision shall be made throughout the period of demolition / Excavation & Construction to prevent transmission of soil to the public road and drainage system by vehicles leaving the site.

*Reason: To avoid siltation to adjoining properties and waterways.*



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## **15. Construction Hours**

Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such permit must be obtained and the appropriate fee paid at least two (2) clear working days in advance of each relevant date. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk.

Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.

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

## **16. Excavation / Backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

**Reason:** *To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage.*

## **17. Health and Safety**

The work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements.

**Reason:** *To ensure the health and safety of the community and workers on the site.*

## **18. Plans on Site**

A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Certifying Authority.

**Reason:** *To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance.*



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## **19. Dust emission and air quality**

Materials must not be burnt on site.

Vehicles entering and leaving the site with soil or fill material must be covered.

Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the Landcom's Managing Urban Stormwater: Soils and Construction (The 'Blue Book'). Odour suppression measures must be carried out so as to prevent nuisance occurring at neighbouring properties.

***Reason:** To ensure residential amenity is maintained in the immediate vicinity.*

## **20. Noise and Vibration**

Noise emissions and vibration must be minimised where possible and work is to be carried out in accordance with Department of Environment and Climate Change (formerly) Environment Protection Authority guidelines for noise emissions from construction/demolition works and must also comply with the provisions of the Protection of the Environment Operations Act 1997. This Condition must be complied with during demolition and building work.

***Reason:** To ensure residential amenity is maintained in the immediate vicinity*

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

## **21. Occupation Certificate Required**

An Interim / Final Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building.

Note: In issuing an Interim / Final Occupation Certificate the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979 have been satisfied.

***Reason:** To ensure compliance with the provisions of the Environmental Planning and Assessment Act.*

## **22. Pool Filtration Requirements**

Filtration for the swimming pool must comply with the relevant Australian Standard.

Note: The following Australian Standard applied at the time of determination:

- Australian Standard AS1926.3 Part 3: Water recirculation and filtration systems

***Reason:** To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act 1992, to prevent young children from accidental death by drowning.*



### **23. Pool Sign**

The owner of the pool shall display a notice showing:

- (i) Appropriate instructions of artificial resuscitation methods.
- (ii) A warning stating 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL'.

Note: This notice shall be kept in a legible condition in a prominent location in the vicinity of the pool at all times.

**Reason:** *To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act, to prevent young children from accidental death by drowning.*

### **24. Pool Safety Requirements**

Access to the pool shall be restricted by a child resistant barrier in accordance with all relevant Acts, Regulations and Standards. The pool shall not be filled with water or be allowed to collect stormwater until the installation of the child resistant barrier is completed.

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

- Swimming Pools Act 1992
- Swimming Pools Regulation 1998
- Australian Standard AS1926 Swimming Pool Safety
- Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

**Reason:** *To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act 1992, to prevent young children from accidental death by drowning.*

### **25. Swimming Pools**

The filtration motor, pump and moving parts shall be enclosed in a sound-proofed structure of masonry or similar materials, with the noise level of any filtration equipment or pumps to not exceed 5dBA above the ambient background noise level measured at the nearest property boundary.

**Reason:** *Noise control*

### **26. Swimming Pool Water to Sewer**

Prior to the issue of an Interim/Final Occupation Certificate the swimming pool including overflow water shall be drained to the sewer. The consent of Sydney Water to dispose of wastewater shall be obtained and compliance with any conditions imposed in connection therewith.

**Reason:** *Water from a swimming pool is classified as wastewater and cannot be legally disposed of into the stormwater system.*



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## ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

### 27. Inner Protection Area

In perpetuity the entire property should be managed as an Inner Protection Area (IPA) as outlined within Planning for Bush Fire Protection 2006 and the Service's document "Standards for Asset Protection Zones".

The inner Protection Area should comprise of the following:

- Minimal fine fuel at ground level
- Vegetation that does not provide a continuous path to buildings for the transfer of fire
- Shrubs and trees that do not form a continuous canopy and vegetation is planted/cleared into clumps rather than continuous rows
- Species that retain dead material or deposit excessive quantities of ground fuel are avoided
- Shrubs and trees are pruned or removed so they do not touch or overhang the buildings
- Vegetation is located far enough away from buildings so that plants will not ignite the buildings by direct flame contact or radiant heat emission.

**Reason:** *Bushfire Protection.*

### Right to Review by the Council

You may request the Council to review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979. Any request to review the application must be within 12 months after the date of determination shown on this notice.

**NOTE:** *A fee will apply for any request to review the determination.*

### Right of Appeal

If you are dissatisfied with this decision Section 97 of the Environmental Planning & Assessment Act 1979 may give 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

Signature  
Name \_\_\_\_\_  
Cynthia Chan, Development Assessment Officer

Signature  
Name \_\_\_\_\_  
Ryan Cole, Team Leader Development Assessment

Date 26 November 2008