

Business Hours:
8.00am to 6.00pm, Monday to Thursday
8.00am to 5.00pm, Friday

S96 No: N0269/09/S96/3

20 July 2010

PETER DOWNES DESIGNS
115 PALMGROVE ROAD
AVALON NSW 2107

Dear Sir/Madam

Modification of Development Consent N0269/09 for Alterations and additions to the existing dwelling, swimming pool, inclinotor and secondary dwelling at 129 RIVERVIEW ROAD AVALON NSW 2107.

Your request for modification has been considered by Council and it has been agreed to modify the Consent.

Please find attached the consent as modified.

If there are any matters that require further clarification, please do not hesitate to contact me.

Yours faithfully

Gina Hay
EXECUTIVE PLANNER

MODIFICATION OF DEVELOPMENT CONSENT NO: N0269/09

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF DETERMINATION

OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:

PETER DOWNES DESIGNS, 115 PALMGROVE ROAD AVALON NSW 2107

Being the applicant in respect of S96 Modification Application No N0269/09/S96/2

Pursuant to section 81 of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of this Development Application for: -

Modification of Development Consent N0269/09 for Alterations and additions to the existing dwelling, swimming pool, inclinator and secondary dwelling

At:-

Lot 1 DP 18269

129 RIVERVIEW ROAD, AVALON NSW 2107

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with Drawings numbered 0908-1 through to 0908-08 prepared by Peter Downes Designs dated 03/7/09. Stormwater Management Plan numbered 26707-1/B prepared by T.J. Taylor Consultants Pty Limited dated July 09, Landscape Plan numbered 114.09/177 prepared by iScape Landscape Architecture dated June 2009, Aboricultural Impact Assessment prepared by Arboreport dated June 2009 as further modified by 0908-01/A through to 0908-08/A dated 30 September 2009 prepared by Peter Downes Designs; **as further modified by drawings 0908-01/B, 0908-02/B, 0908-03/B, 0908-04/B, 0908-05/B, 0908-06/B, 0908-07/B and 0908-08/B dated 30/9/09 drawn by P Downes of Peter Downes Designs; as amended by plans 0908-01/C dated 06-05-10, 0908-02/C dated 26-04-10, 0908-03/C dated 26-04-10, 0908-04/C dated 27-04-10, 0908-05/C dated 05-05-10, 0908-06/C dated 05-05-10, 0908-07/C dated 04-05-10 & 0908-08/C dated 03-05-10 all drawn by Peter Downes as amended in red (shown clouded) or as modified by any conditions of this consent.**

The reason for the imposition of these conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act, pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Note: For ease of reference, all of the previous conditions have been re-listed. Those conditions amended or deleted have been highlighted.

Endorsement of date of consent 28/08/2009

Modified 14/12/2009

Modified 31 March 2010

Modified 20 July 2010

Mark Ferguson

GENERAL MANAGER

Per:

Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. 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, there is to be such a contract in force.
3. Critical stage inspections are to be carried out in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
4. 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.

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.
5. 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.
6. 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.
7. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

B. Matters to be incorporated into the development and maintained over the life of the development:

- 1. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Jack Hodgson Consultants dated July 2009 are to be incorporated into the construction plans.
- 2. As part of an integrated on-site stormwater management system, stormwater overflow from the rainwater tank is to be discharged into the adjacent waterway with erosion minimisation facilities installed.
- 3. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Metropolitan Local Aboriginal Land Council (MLALC) and Department of Environment & Climate Change (DECC) are to be notified.
- 4. For the life of the development, domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.

5. Any vegetation planted outside approved landscape zones is to be consistent with:
 - a. Species listed in the Ecological Sustainability Plan or Bushland Management Plan
 - b. Species listed from the Endangered Ecological Community
 - c. Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and *Native Plants for Your Garden* link available from Council's website www.pittwater.nsw.gov.au
6. Over the life of the development all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website (www.pittwater.nsw.gov.au) for noxious/environmental weed lists.
7. No environmental weeds are to be planted on the site. Refer to Pittwater Council website (www.pittwater.nsw.gov.au) for environmental weed lists.
8. For the life of the development no bush rock is to be removed from site or destroyed without prior approval from NSW Department of Environment and Climate Change and Pittwater Council. The removal or destruction of bush rock has been listed as a Key Threatening Process by the Threatened Species Conservation Act, 1995. Bush rock located within an approved development footprint must be relocated and reused onsite.
9. Any new fencing is to be made passable to native wildlife. As a guideline, hole dimensions should be 150mm wide X 100mm long at ground level spaced at 6 metre intervals..
10. The existing landscaping required to be retained together with any additional landscaping required by this Development Consent is to be maintained for the life of the development.
11. All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.
12. In accordance with Pittwater Council's Tree Preservation Order, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, as trees stand within the envelope of approved development areas. For all other tree issues not related to a

development application, applications must be made to Council's Tree Management Officers.

13. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
14. The spa/pool backwash and any overflow waters are to be disposed to the Sydney Water sewer.
15. Any solid fuel or wood burning appliances shall comply with Australian Standard AS 4013-1992 or any subsequent amending standard.
16. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the Protection of the Environment Operations Act, 1997.
17. The existing studio area under the garage is not be used for separate residential habitation.
18. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pool Act 1992, Regulation and Australian Standard 1926.1-2007, Safety barriers for swimming pools
19. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool / spa.
 - a. The warning notice (i.e. sign) must contain all of the following words:
 - i. "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" and
 - ii. "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
 - iii. "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",
 - b. In addition, the notice must contain a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
 - i. that are set out in accordance with the relevant provisions of that Guideline, and

- ii. that comply with the other relevant guidelines of the Australian Resuscitation Council, and
 - iii. that are illustrated by drawings with key words only in bold print,
 - c. a statement to the effect that formal instruction in resuscitation is essential,
 - d. the name of the teaching organisation or other body that published the sign and the date of its publication.
20. The inclinator rail and support posts are to be painted dark green or similar, to limit its visual impact when viewed from the surrounding area.
21. The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of all external glazing is to have a maximum reflectivity index of 25%. Written confirmation of the reflectivity index of material is to be submitted with the Construction Certificate.
- (Note: the reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement. This is to ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development).
22. Materials and colour schemes are to be in accordance with the samples submitted to Council with the application. No white or light coloured roofs are permitted.
23. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
- 24. A privacy screen with a maximum transparency of 25% and a height of 1.5m is to be provided to the entire length of the southern elevation of the pool area and the tiled balcony (RL 27.07) except where the inclinator landing is.**

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Prior to issue of the Construction Certificate, Form 2 of the *Geotechnical Risk Management Policy for Pittwater* (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.
2. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as

appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.

3. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
4. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
5. Structural Engineering details relating to the development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
6. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. All excavated material is to be removed from the site.
2. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

3. 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.
4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.
5. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
6. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
7. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
8. No skip bins or materials are to be stored on Council's Road Reserve.
9. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - The builder's name, builder's telephone contact number both during work hours and after hours.
 - That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
 - That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - That no skip bins or materials are to be stored on Council's Road Reserve.
 - That the contact number for Pittwater Council for permits is 9970 1111.
10. Protection fencing measures (including sedimentation fences) are to be installed in accordance with all approved plans including those specified in the Arborist Report and/or Ecological Sustainability Plan or Bushland Management Plan. Protection measures are to

be maintained for the duration of works. Protection fencing that is no longer required is to be removed once all works are completed.

11. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Arboreport dated June 2009 are required to be complied with before and throughout the development period, particularly with regard to the following:
 - vii. Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - viii. Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - ix. All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - x. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.

Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

12. During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.
13. A stamped copy of the approved plans is to be kept on the site at all times, during construction.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written

satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. Prior to issue of the Occupation Certificate, Form 3 of the *Geotechnical Risk Management Policy* (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.
2. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
3. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
4. The existing kitchen within the studio are under the garage is to be removed.
5. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.

F. Matters to be satisfied prior to the issue of Subdivision Certificate:

Nil

G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.

3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(2) of the Act, this consent will lapse if the development, the subject of this consent, is not commenced within 2 years after the date from which this consent operates.

NOTE: Council may be prepared to consider an extension of this Consent period for a further 12 months, however, the request for extension would have to be received during the initial 2 year period.

5. To ascertain the date upon which the determination becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the *Environmental Planning and Assessment Act, 1979*. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 1 year from the date of determination.
7. If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act, 1979*, gives you a right of appeal to the Land and Environment Court within 12 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.