

## DETERMINATION

**CONSENT NO: N0567/10**  
**ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)**  
**NOTICE TO APPLICANT OF DETERMINATION**  
**OF A DEVELOPMENT APPLICATION**

Applicants Name and Address:  
SMITH & TZANNES ARCHITECTURE  
PO BOX 240  
ALEXANDRIA 1435

Being the applicant in respect of Development Application No **N0567/10**

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application No **N0567/10** for:

Alterations and additions to an existing dwelling

**At: 13A OCEAN ROAD, PALM BEACH (Lot 1 DP 121833)**

### **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:

**Architectural Drawings numbered: A012, A100, A101, A102, A200, A201, A202, A300, & A301 Revision D Dated 24/05/11 Geotechnical Report numbered: 12312/1 Dated 10/08/2010 Prepared by Geotechnique Pty Ltd Coastal Protection Report Numbered: CPR017-13A Dated 23rd August 2010 Prepared by AJK Design Pty Ltd BASIX Certificate numbered: A113386**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached 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 1979 (as amended), 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.

Endorsement of date of consent **25/08/11**

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 Geotechnique Pty Ltd are to be incorporated into the construction plans.
2. The recommendations of the approved Coastal Hazard Report prepared by AJK Design are to be incorporated into construction plans and maintained over the life of the development.
3. The Stormwater Harvesting and Reuse Scheme shall be installed and operated in accordance with the accepted design, Environmental and Health Risk Management Plan, Operation and Maintenance Plan, Manufacturer's Specifications and associated operational guidelines.
4. The internal driveway finish is:
  - a. to be a stable surface for all weather conditions
  - b. to be constructed of materials that blend with the environment and are of dark or earthy tones or natural materials.
5. 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.
6. 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.
7. 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](http://www.pittwater.nsw.gov.au)

8. 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](http://www.pittwater.nsw.gov.au)) for noxious/environmental weed lists.
9. No environmental weeds are to be planted on the site. Refer to Pittwater Council website ([www.pittwater.nsw.gov.au](http://www.pittwater.nsw.gov.au)) for environmental weed lists.
10. 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.
11. 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.
12. Screen planting is to be provided, which after three years will, in conjunction with existing vegetation and canopy planting, screen at least 50% of the built form when viewed from the street and/or neighbouring properties. Species selection is to incorporate locally native species. The screen planting is to be maintained for the life of the development and is to be replaced if any part of it dies or is destroyed or removed.
13. In accordance with Pittwater Councils 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.
14. No water pollution shall result from the operation of any plant or equipment or activity carried out.
15. 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.
16. The spa/pool must be covered and secured by a lockable child-safe structure (such as a door, lid, grille or mesh) in accordance with the prescribed standards which is:
  - a. of substantial construction and having no opening through which it is possible to pass a testing apparatus, and
  - b. fastened to the spa pool by a device that is itself of substantial construction and having no opening through which it is possible to pass a testing apparatus.
17. All sanitary drainage must be concealed in service ducts or otherwise hidden from external view to the satisfaction of the Responsible Authority.

18. All external glazing is to have a maximum reflectivity index of 25%.
19. New electrical connections are to be carried out using underground cabling.
20. 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.
21. The ground floor of the dwelling is not to be used for separate habitation and no kitchen facilities are to be installed

### **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).
3. Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.
4. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
  - a. Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
  - b. A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete finish).
  - c. All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
  - d. Council's Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.

5. 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.
6. The proposed species *Pennisetum* is undesirable in Pittwater as it can be potentially invasive to coastal bushland, and therefore is to be deleted from the plan and replaced with a more suitable species on an amended landscape plan to be provided prior to the issue of the Construction Certificate.
7. 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.
8. The finished surface materials, including colours and texture of any building, shall blend with the surrounding and/or natural materials and shall be non-glare. A satisfactory specification which achieves this shall be submitted to the Accredited Certifier or Council with the Construction Certificate application in the form of a *Schedule of Finishes*.

**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. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
2. All excavated material is to be removed from the site.
3. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
4. 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.
5. 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.
6. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

7. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
8. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
9. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on 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.
10. No skip bins or materials are to be stored on Council's Road Reserve.
11. A site fence and silt and sediment control fence is to be erected and maintained during the course of works along any street boundary and park/reserve boundary to the site.
12. 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.
13. All construction in the public road reserve must be undertaken by a Council authorised contractor.
14. 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.
15. 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. Prior to issue of the Occupation Certificate, a certificate is to be submitted to the Principal Certifying Authority, that has been prepared and signed by a specialist coastal engineer who is a registered professional engineer with chartered professional status (CP Eng) and Coastal Engineering as a core competency, stating that the development has been constructed in accordance with the intent of the approved Coastal Hazard Report.
3. Certification is to be provided to the Principal Certifying Authority by a qualified experienced 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 drainage/stormwater management system has been installed to the manufacturer's specification (where applicable) and completed in accordance with the engineering plans and specifications required under this consent.
4. A certificate submitted by a Chartered Professional Engineer confirming to the satisfaction of the Principal Certifying Authority that the works in the public road reserve comply with Council requirements is to be provided with the Occupation Certificate application.
5. Prior to issue of an Occupation Certificate photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.
6. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
7. 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.



8. 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.
9. Street numbers are to be affixed to the building prior to occupation.

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

N/A

**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(1) of the Act, this consent will lapse if the development, the subject of this consent, is not physically commenced within 5 years after the date from which this consent operates.
5. To ascertain the date upon which the determination becomes effective and operates, 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.