

**CONSENT NO: N0171/09**  
**ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)**  
**NOTICE TO APPLICANT OF DETERMINATION**  
**OF A DEVELOPMENT APPLICATION**

Applicants Name and Address:

JOHN WILLIAM DALE  
2/26 FAIRFAX ROAD  
BELLEVUE HILL NSW 2023

Being the applicant in respect of Development Application No **N0171/09**

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 **N0171/09** for:

**Alterations and additions to the existing dwelling**

**At: 73 WHALE BEACH ROAD, AVALON (Lot 158 DP 17189)**

**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 DA126-00 to DA126-09 prepared by Michael Muir Associates dated 1 April 2009** 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 **17<sup>th</sup> June 2009**

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 are to be incorporated into the construction plans.
2. 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 developemnt areas. For all other tree issues not related to a development application, application must be made to Council's Tree Management Officers.
3. 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.
4. The recommendations contained within the Bushfire Hazard Assessment Report conducted by Building Code and Bushfire Solutions dated January 2009 are to be implemented.
5. 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.
6. Roofs to all structures are to be of dark grey, brown and/or green tones only.
7. 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.

**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. 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.
3. 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.
4. A Certificate from 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, certifying the adequacy of the existing structure to support the additional loading is to be submitted to the Accredited Certifier or Council.
5. 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. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
2. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
3. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on-site, recycling or where reuse or recycling is not practical, disposal at an appropriate authorised waste facility.
4. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
5. No skip bins or materials are to be stored on Councils Road Reserve.
6. 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 Councils 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 Councils Road Reserve.
  - That the contact number for Pittwater Council for permits is 9970 1111.

7. 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. 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, ie 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](http://www.sydneywater.com.au) then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.