



Warringah Council

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Development Application No: 2007/1226

DEVELOPMENT APPLICATION DETAILS

Applicant Name:	A V Jennings
Applicant Address:	PO Box 7207, Baulkham Hills Business Centre NSW 2153
Land to be developed (Address):	Lot 250 and DP 11497, 5 Tottenham Street, North Balgowlah
Proposed Development:	Two storey dwelling with air conditioner

DETERMINATION

Made on (Date):	21 August 2008
Determination:	Deferred Commencement Consent DA2007/1226 – Subject to conditions described below
Consent to operate from (Date):	Once Council is satisfied as to those matters specified in the deferred commencement conditions, Council will nominate by way of written notice to the Applicant, the date from which the consent operates.
Consent to lapse on (Date):	3 years from operative date as notified in writing by Council.

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.

DEFERRED COMMENCEMENT CONDITIONS

This consent shall not operate until the following deferred commencement conditions have been satisfied.

1. Stormwater Drainage Easement

- a) As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be via an easement through the downstream property(s) to the kerb in Water Reserve Road. The easement is to be created under Sections 88B, and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of the creation of the easement in order to activate the consent.
- b) Evidence required to satisfy these conditions must be submitted to Council within 3 (three) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Reason: *To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties. (DACEAsde1)*

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

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
01 - 1	10/10/07	A V Jennings
02gl	10/10/07	A V Jennings
02fl	10/10/07	A V Jennings
03 - 1	10/10/07	A V Jennings
03 - 2	10/10/07	A V Jennings
03 - 3	10/10/07	A V Jennings

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. (DACGBapasd)

1a) Approved Stormwater Plan

The stormwater drainage works are to be generally in accordance with the drainage plan submitted by alw design, drawing number SW7112 – S1B and S2B dated 20/05/08 as amended in red.

Reason: *To ensure appropriate provision for stormwater disposal arising from the development. (DACEBasp)*

1b) Demolition Works

No construction certificate can be issued until all demolition works under Development Consent No 2008/0925 has been finalised.

Reason: To ensure all demolition works are carried out to appropriate standards prior to building construction works commencing.

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. (DACGBbca)*

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

3. Vehicle Crossings Application - Formwork Inspection

An application for street levels and payment of the associated fee shall be made with Council. This application includes the approval and all Council inspections relating to the driveway construction and the associated fee must be paid prior to the issue of the Construction Certificate.

Reason: *To facilitate suitable vehicular access to private property. (DACECvcafi)*

4. Development/Construction Security Bond

A bond (determined from cost of works) of \$1,000 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. (DACECdcsb)*

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. (DACECswa)*

6. Section 94A Contribution

\$3,678 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

The basis for the contributions is as follows:

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		\$ 367,830.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$3,494	6923
S94A Planning and Administration	0.05%	\$184	6924
Total	1.0%	\$3,678	

Reason: *To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. (dacgcS94ac)*

7. Structural Design Certificate

Structural drawings and certificate from a qualified structural engineer, certifying that the design is in accordance with all relevant Australian Standards and design codes shall be submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: *To ensure the safety and structural adequacy of the approved development and compliance with the appropriate Australian Standards. (DACGCsdc)*

8. 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. (DACGCIsI)*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

9. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: *To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEDpliwp)*

10. Road Opening Permit

The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

Reason: *Statutory requirement (Roads Act 1993). (DACEDrop)*

11. Special Permits

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property pursuant to Section 138 of the Roads Act 1993. A minimum of forty-eight (48) hours notice is required for all permits except work zones, which may require additional assessment time. (See below)

☐ **Permit for on-street mobile plant**

Restrictions apply to the hours of operation and the area of operation for on street mobile plant equipment (for example cranes, concrete pumps, cherry pickers). Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

☐ **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given.

☐ **Kerbside restrictions, work zones**

Existing kerbside restrictions apply. An application must be made to Council for the alteration of existing kerbside restrictions or the provision of a construction zone.

Reason: Proper management of public land. (DACEDsp)

12. Home Building Act

- (1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
 - (a) in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor licence number, and
 - (ii) is satisfied that the licensee has complied with the requirements of the Home Building Act, or
 - (b) in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or



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- (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: The amount referred to in paragraph (b)(ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was gazetted, that amount was \$3,000. As those regulations are amended from time to time, that amount may vary.

- (2) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
- (3) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is 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.

Reason: Prescribed - Statutory. (DACGDhba)

13. 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. (DACGDnc)

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. Applicant's Cost of Work on Council Property

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

Reason: To ensure the proper management of public land. (DACEEacwcp)

15. 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. (DACEEssc)

16. Vehicle Crossings

The provision of 1 vehicle crossing 4.3 metres wide at the kerb to 4 metres wide at the boundary and a minimum of 2 metres from the street tree in accordance with Warringah Council Drawing No A4-3330/5 Extra Low and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

For details see Warringah Council's website <<http://www.warringah.nsw.gov.au>> or phone (02) 9942 2111.

Reason: *To facilitate suitable vehicular access to private property. (DACEEvc)*

17. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

Reason: *To ensure compliance of civil works with Council's specification for engineering works. (DACEEcws)*

18. 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. (DACEEimsc)*

19. Layback Construction

A layback 4.3 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: *To facilitate suitable vehicular access to private property. (DACEElc)*

20. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: *Public Safety. (DACEEmrr)*

21. 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:



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- (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 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. (DACGDss)*

22. Toilets

- (1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (2) Each toilet provided:
- (a) must be a standard flushing toilet, and
 - (b) must be connected:
 - (i) to a public sewer; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (4) In this clause:

accredited sewage management facility means a sewage management facility to which Division 4 Sub-division 5 of the Local Government (General) Regulation 2005 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in of the Regulation.

approved by the Council means the subject of an approval in force under the Local Government (General) Regulation 2005.

public sewer has the same meaning as it has in the Local Government (General) Regulation 2005.

sewage management facility has the same meaning as it has in the Local Government (General) Regulation 2005.

Reason: *To ensure adequate facilities are provided for workers on the site. (DACGDt)*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

23. Applicant's Cost of Work on Council Property

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

Reason: *To ensure the proper management of public land. (DACEEacwcp)*

24. 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. (DACEEpup)*

25. Aboriginal Heritage

If in undertaking excavations or works, any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: *Aboriginal Heritage Protection. (DACGEah)*

26. 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. (DACGEpos)*

27. Survey Certificate

A survey certificate prepared by a registered Surveyor is to be submitted to the Principal Certifying Authority at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Reason: *To determine the height of buildings under construction comply with levels shown on approved plans. (DACGEsc)*

28. 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.

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. (DACGEch)*

29. 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. (DACGEeb)*

30. Support for Neighbouring Buildings

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (a) must preserve and protect the building from damage;
 - (b) if necessary, must underpin and support the adjoining building in an approved manner Subject to adjoining owner's consent; and
 - (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.



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(3) In this clause, allotment of land includes a public road and any other public place.

Reason: *To ensure adjoining owner's property rights are protected and protect adjoining properties from potential damage. (DACGEg)*

31. 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. (DACGEhs)*

32. 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. (DACHEdaq)*

33. Site Stabilisation

Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully re-turfed and the site must be maintained in a safe and clean state until such time as new construction works commence.

Reason: *To retain topsoil and minimise dust pollution. (DACHEss)*

34. 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. (DACHEnv)*

35. Tree Preservation Order

The land is subject to a Tree Preservation Order and no trees other than those expressly granted permission as a result of this development consent, may be removed without the prior consent of Council.

Reason: *Protection of trees. (DACLEtpo)*



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

36. Certification Stormwater Drainage Works

An appropriately qualified and practicing Civil Engineer shall certify to the Council / Principal Certifying Authority that the stormwater drainage system was constructed in accordance with this consent and approved drainage plans submitted by alw design, drawing number SW7112 – S1B and S2B dated 20/05/08 as amended in red. The Applicant shall, upon completion of the Development works and prior to the issue of any Occupation Certificate, submit to Council a copy of the aforementioned letter of Certification.

Reason: *Compliance with this consent. (DACEFcsw)*

37. Reinstatement of Kerb

Prior to the issue of an Interim/Final Occupation Certificate all redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Reason: *To facilitate the preservation of on street parking spaces. (DACEFrk)*

38. House / Building Number

Prior to the issue of an Interim/Final Occupation Certificate, the house/building number is to be affixed to the building.

Reason: *Proper identification of buildings. DACGFhbn)*

39. Smoke Alarms

Smoke alarms are to be installed throughout the new and existing portions of the Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

Reason: *Compliance with BCA and safety of occupancies*

40. 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. (DACGFocr)*

41. Installation of Air Conditioning

The air conditioning unit(s) shall not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary when measured in accordance with the Environment Protection Authority's Industrial Noise Policy.

Reason: *To maintain residential amenity to adjoining properties. (DACGGiac)*

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 Ryan Cole
 Team Leader – Development Assessment

Date 27 August 2008