



NOTICE OF DETERMINATION

Application Number: DA2008/1080

APPLICATION DETAILS

Applicant Name and Address: A C Gartrell
PO Box 168
Terrey Hills NSW 2084

Land to be developed (Address): Lot 320 DP 752017
4 Larool Road Terrey Hills NSW 2084

Proposed Development: Demolition of selected structures, conversion of existing dwelling into storage/staff building and construction of a two storey dwelling including landscaping and ancillary site works in association with a plant hire nursery.

DETERMINATION - APPROVED

Made on (Date): 9 April 2009

Consent to operate from (Date): 9 April 2009

Consent to lapse on (Date): 9 April 2011

Details of Conditions

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

NOTE:

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

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

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

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
Site survey 90-0031	2 April 07	Peter Bolan & Associates
Architectural plans A.04, a.05 A.06 A.07 A.08	11 may 08	Arthur Gartrell Architects

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

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

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

2. Building Code of Australia

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

Reason: *Prescribed - Statutory.*

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

3. 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.*

4. Section 94A Contribution

\$4,287 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:

Warringah Section 94A Development Contributions Plan			
Contribution based on total development cost of		\$ 428,714.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$4,073	6923
S94A Planning and Administration	0.05%	\$214	6924
Total	1.0%	\$4,287	

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.*

5. Bushfire Construction Standard

Construction shall comply with AS3959 – 1999 Level 2 ‘Construction of Buildings in Bushfire Prone Areas’ to the western, northern and eastern elevations. Construction shall comply with AS3959 – 1999 Level 1 ‘Construction of Buildings in Bushfire Prone Areas’ to the southern elevation. Details to be included on the Construction Certificate plans to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *Requirement of the Rural Fire Service*

6. Fencing

Any proposed all new fencing shall comply with RFS Development Control Services ‘Fast Fact 2/06 – Revised December 2007 (Release 4)’. Details to be included on the Construction Certificate plans to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *Requirement of the Rural Fire Service*

7. External Doors



Warringah Council

External doors shall comply with Development Control Services 'Practice Note 3/06 – Revised November 2007 (Release 2)' Details to be included on the Construction Certificate plans to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *Requirement of the Rural Fire Service*

8. External Timbers

All exposed / external used in the development should be of a fire resistant timber species as identified in the RFS Development Control Note 001. These species include: Jarrah, Balau (Selangan), Tallowwood, Forest Red Gum, Yellow Stringybark, Blackbutt, Kwila (Merbau), Red Iron Bark, Red River Gum, Silver Top Ash, Spotted Gum and Turpentine." Details to be included on the Construction Certificate plans to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *Requirement of the Rural Fire Service*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

9. Excavation/Building Works

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

Reason: *To ensure compliance with statutory provisions.*

10. Inner Protection Area

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

The inner protection area should comprise the following:

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

Reason: *Requirement of the Rural Fire Service*

11. 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
 - (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.*

12. 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.*

13. 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.*

14. Identification and Protection of Trees

All trees identified for retention/protection are to be clearly identified by signage as protected trees.

Reason: *To protect trees to be retained.*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. 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.*

16. 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.*

17. Construction Hours

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

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

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

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

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

18. Demolition Works

All Demolition Work shall be carried out in a safe manner by trained personnel under the management of a licensed demolisher who is registered with the WorkCover Authority, in accordance with all relevant Acts, Regulations and Australian Standards.

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



- Australian Standard AS2601.2001 - Demolition of Structures

Reason: *To ensure a satisfactory standard of demolition works.*

19. 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.*

20. Plant & Equipment Kept Within Site

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This condition shall be complied with during demolition and building work.

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

21. 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.*

22. 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.*

23. Protection of Trees

All trees which are not listed as exempt or noxious in Warringah that are not indicated for removal on Site Plan A.02 by *Arthur Gartrell* dated 11 May 2008

Reason: *Protection of existing environmental infrastructure and community assets.*

24. Trees



- (1) Tree roots of 50mm or greater in diameter encountered during excavation, shall only be cut following consultation with a qualified Arborist. Tree roots between 10mm and 50mm in diameter, severed during excavation, shall be cut cleanly by hand.
- (2) Underground services should use common trenches as far away from tree roots as possible. If the services need to be run within the protection zone, all utility pipes are to be laid using appropriate directional boring techniques. Directional Boring shall be carried out at least 600mm beneath natural ground to avoid damage to tree/trees root system. Entry and exit points are to be located outside the protected area. No tree roots are to be severed, or damaged during this work. Should problems arise, work is to cease until those problems are resolved and confirmed in writing by Council's Tree Management Officer.
- (3) All overhead utility services are to be located outside the canopies of existing trees.
- (4) The following guidelines are to be complied with at all times:
 - (a) The applicant shall ensure that at all times during the development period no activities, storage or disposal of materials shall take place beneath the canopy of any tree covered under Council's Tree Preservation Order unless specifically approved by Council.
 - (b) Trees marked for retention are not to be damaged or used to display signage, or as fence or cable supports for any reason.
 - (c) Siting of sheds, stockpiles and vehicle parking should be sited so that they are remote from trees.
 - (d) Site personnel are to be made aware of tree requirements and protective measures. Paving materials placed within the dripline of any tree should be of a porous material.
- (5) During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:
 - (a) A general decline in health and vigour.
 - (b) Damaged, crushed or dying roots due to poor pruning techniques.
 - (c) More than 10% loss or dieback of roots, branches and foliage.
 - (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
 - (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
 - (f) An increase in the amount of deadwood not associated with normal growth.
 - (g) An increase in kino or gum exudation.
 - (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
 - (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

The presence of any of these symptoms or signs may be considered by Council as a breach of the Conditions of Development Approval.

- (7) All trees on neighbouring properties are to be protected from adverse impacts caused by the works. Any excavations or changes of level occurring within the canopy of trees on neighbouring properties shall only be undertaken following consultation by a suitably qualified Arborist.



Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: *Protection of trees.*

25. Tree Pruning

Any tree pruning necessary for construction shall be carried out under the supervision of an appropriately qualified Arborist and be in accordance with the relevant Australian Standards.

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

- Australian Standard AS 4373.2007 - Pruning of Amenity Trees.

Reason: *To ensure protection and longevity of existing trees.*

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

26. BASIX Compliance Certification

Prior to the issue of an Interim/Final Occupation Certificate, all the selected BASIX commitments as detailed in the BASIX Certificate, must be completed.

Reason: *To ensure the development complies with the requirements of the SEPP (Building sustainability index: BASIX 2004).*

27. 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.*

28. Sydney Water

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

Please refer to the website www.sydneywater.com.au for:



Warringah Council

- ☐ 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.

Reason: To ensure compliance with the statutory requirements of Sydney Water. **[F15]**

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

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

29. Rural Workers Dwelling

The second dwelling to be retained on site (north-west area) is permitted to be retained as a "rural workers dwelling" and occupied in connection with employees required for the approved nursery (plant hire) operations on site, or with an authorised change to a similar intensive rural land use. Should the need for a "rural workers dwelling" for employees cease upon any change in the use of the land then the "rural workers dwelling" shall be removed. The dwelling must not be extended or altered in any manner without prior consent, where consent is otherwise required in accordance with the Warringah LEP 2000 for such work.

Reason: To ensure compliance with the statutory requirements and maintain the housing density in compliance with LEP controls.

Right to Review by the Council

You may request Council review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979 if it is NOT integrated or designated development. Any request to review the application must be made and determined within 12 months from the date of determination.

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 9 April 2009