

NOTICE OF DETERMINATION

Application Number: DA2008/1666

APPLICATION DETAILS

Applicant Name and Address: M W Herriott
20/12 Phillip Mall
WEST PYMBLE NSW 2073

Land to be developed (Address): Lot 26 DP 10569 6 Ozone Parade DEE WHY NSW 2099

Proposed Development: Swimming pool

DETERMINATION - APPROVED

Made on (Date): 2 January 2009

Consent to operate from (Date): 2 January 2009

Consent to lapse on (Date): 2 January 2012

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
1 to 4	25 November 2008	Outside Living

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. Development/Construction Security Bond

A bond (determined from cost of works) of \$500 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.*

4. 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.*

5. Pool Access

Access to the pool shall be restricted by a child resistant barrier in accordance with the regulations prescribed in all relevant Acts, Regulations and Australian Standards. In particular, no doorways are to open into the pool enclosure and windows are to be fitted with grills/bars. Details demonstrating compliance with these requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Note: The following Acts, Regulations and Australian Standards applied at the time of determination:

- Swimming Pools Act 1992
- Swimming Pools Regulation 1998
- Australian Standard AS1926 Swimming Pool Safety
- Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

Reason: *To ensure the safety of children and make applicant aware of the need to comply with applicable pool fencing legislation.*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

6. 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.*

7. 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.*

8. 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:
 - (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.*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. 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.*

10. 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 or silt and sediment entering the street drainage system.

Reason: *To avoid siltation to adjoining properties and waterways.*

11. 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.

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.*

12. 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.*

13. 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*

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

14. 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.*

15. Pool Filtration Requirements

Filtration for the swimming pool must comply with the relevant Australian Standard.

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

- Australian Standard AS1926.3 Part 3: Water recirculation and filtration systems

Reason: *To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act 1992, to prevent young children from accidental death by drowning.*

16. Pool Sign

The owner of the pool shall display a notice showing:

- Appropriate instructions of artificial resuscitation methods.
- A warning stating 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL'.

Note: This notice shall be kept in a legible condition in a prominent location in the vicinity of the pool at all times.

Reason: To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act, to prevent young children from accidental death by drowning.

17. Pool Safety Requirements

Access to the pool shall be restricted by a child resistant barrier in accordance with the regulations prescribed in all relevant Acts, Regulations and Australian Standards. In particular, no doorways are to open into the pool enclosure and windows are to be fitted with grills/bars.

The pool shall not be filled with water or be allowed to collect stormwater until the installation of the child resistant barrier is completed.

Note: The following Standards and Codes applied at the time of determination:

- Swimming Pools Act 1992
- Swimming Pools Regulation 1998
- Australian Standard AS1926 Swimming Pool Safety
- Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

Reason: To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act 1992, to prevent young children from accidental death by drowning.

18. Swimming Pools

The filtration motor, pump and moving parts shall be enclosed in a sound-proofed structure of masonry or similar materials, with the noise level of any filtration equipment or pumps suppressed to meet Environment and Protection Authority guidelines.

Reason: Noise control



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 Keith Wright, Senior Development Assessment Officer

Date 2 January 2009