

NOTICE OF DETERMINATION

Application Number: DA2009/0122

APPLICATION DETAILS

Applicant Name and Address: M. Hogan
52 Curl Curl Parade, CURL CURL.

Land to be developed (Address): Lot 131, DP 5539, No.52 Curl Curl Parade, Curl Curl

Proposed Development: Alterations and additions to a dwelling house including a second storey addition, garage, driveway and associated landscaping works.

DETERMINATION - APPROVED

Made on (Date): 8 July 2009

Consent to operate from (Date): 8 July 2009

Consent to lapse on (Date): 8 July 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 Stormwater Plan

The stormwater drainage works are to be generally in accordance with the drainage plan submitted by Peninsula Consulting Engineers, drawing number 09-112 D01 dated January 2009.

Reason: To ensure appropriate provision for stormwater disposal arising from the development.

2. 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	Date	Issue and Date	Prepared By
2009-01	February 2009	A 2/02/2009	Context Design Pty Ltd
2009-03	February 2009	A 2/02/2009	Context Design Pty Ltd
2009-04	February 2009	A 2/02/2009	Context Design Pty Ltd
2009-05	February 2009	A 2/02/2009	Context Design Pty Ltd
2009-06	February 2009	A 2/02/2009	Context Design Pty Ltd
2009-07	February 2009	A 2/02/2009	Context Design Pty Ltd
2009-08	February 2009	A 2/02/2009	Context Design Pty Ltd
2009-09	February 2009	A 2/02/2009	Context Design Pty Ltd

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.

3. 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.



4. Protection of Rocky Outcrops in the Rear Yard

The rocky outcrops located adjacent to the southern elevation of the upper floor and marked on approved plan 2009-05 (Issue A) 2/02/2009 prepared by Context Design Pty Ltd dated February 2009 are to be protected from the development. In this regard the Eucalyptus sp marked to be removed is also to be protected.

Reason: *To protect the unique environmental assets on site.*

5. Landscape Planting

A canopy tree is to be planted within the front setback. The species is to be selected from the Tree Replacement Guide on Council's website at www.warringah.nsw.gov.au/environment/tree_replace_guide.aspx

Reason: *To minimise the visual impact of the garage on the streetscape.*

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

6. 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.*

7. 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.*

8. Development/Construction Security Bond

A bond (determined from cost of works) of \$2,000 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.*



9. 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.*

10. BASIX Certification

The development shall fully comply with the schedule of BASIX Commitments specified within BASIX Certificate No.A50124. Plans and specifications that reflect those commitments identified on the BASIX Certificate to be satisfied prior to the issue of the Construction Certificate, shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

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

11. Geo-Technical Reporting

A certificate prepared by an appropriately qualified Geo-technical Engineer shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate certifying that the existing rock formations and substrate on the site are capable of withstanding:

- (a) the proposed loads to be imposed;
- (b) the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
- (c) protection of adjoining properties;
- (d) the provision of appropriate subsoil drainage during and upon completion of construction works.

Reason: *To ensure the structural integrity of the subject site and adjoining sites during the excavation process.*



12. 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.*

13. External Finishes

The external finishes of the dwelling and garage, including the roof and garage door are to be of earthy and natural tones which harmonise with the surrounding landscape settings. In this regard, the metal roof shall be medium to dark in colour in order to minimise solar reflections to neighbouring properties. The metal roof shall not be of light colours such as off white, cream, silver or light grey colours. Details are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: *To ensure the external colours and finishes complement the landscape and bushland settings.*

14. Section 94A Contribution

\$3930.00 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		\$ 393,000.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$3733.50	6923
S94A Planning and Administration	0.05%	\$196.50	6924
Total	1.0%	\$3930.00	

Reason: *To retain a level of service for the existing population and to provide the same level*



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of service for the population resulting from new development.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. 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.*

16. 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.*

17. 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).*

18. 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:



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- (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.*

19. 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.*



20. Construction Management Program

A Construction Management Program shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- (b) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (c) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- (d) Proposed protection for Council and adjoining properties; and
- (e) The location and operation of any on site crane.

Reason: *To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. 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.*

22. 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.*



23. 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.*

24. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Before excavation, the responsible person must notify their intention to the adjoining owner/s and shall at the same time furnish to such owner/s particulars of the work proposed to be carried out.

Reason: *Safety.*

25. 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.*

26. Layback Construction

A layback 3.5 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.*

27. Vehicle Crossings

The provision of 1 vehicle crossing 3.5 metres wide at the kerb to 4.5 metres wide at the boundary in accordance with Warringah Council Drawing No A4-3330/4 Extra High 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.*

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.

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.*

29. 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

30. 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.



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Reason: *To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage.*

31. 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.*

32. 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*

33. Identification and Protection of Trees

All trees identified for retention/protection are to be clearly identified by signage as protected trees. The primary root zone areas of the trees identified for protection are to be protected by fencing during the entire construction period except for specific areas directly to achieve construction works.

Reason: *To protect trees to be retained.*

34. Protection of Trees During Works

All trees that are to be specifically nominated to be retained by notation or condition as a requirement of development consent shall be maintained and protected during demolition, excavation and construction on the site. Details of required protection methods shall be provided to the Certifying Authority by an appropriately qualified person prior to commencement of any works on the site.

Reason: *To ensure compliance with the requirement to retain significant planting on the site.*

35. Trees

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.



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.

The following guidelines are to be complied with at all times:

- 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.
- Trees marked for retention are not to be damaged or used to display signage, or as fence or cable supports for any reason.
- Siting of sheds, stockpiles and vehicle parking should be sited so that they are remote from trees.
- 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.

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 general decline in health and vigour.
- Damaged, crushed or dying roots due to poor pruning techniques.
- More than 10% loss or dieback of roots, branches and foliage.
- Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- Yellowing of foliage or a thinning of the canopy untypical of its species.
- An increase in the amount of deadwood not associated with normal growth.
- An increase in kino or gum exudation.
- Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- 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.

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.*

36. 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

37. 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.*

38. 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).*

39. 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.*



40. Smoke Alarms

Smoke alarms shall be installed in the dwelling in accordance with the Building Code of Australia and AS 3786 prior to the issue of the interim/final occupation certificate.

Reason: *Compliance with Part 9 – Division 7A of EP & A Regulations 2000.*

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

41. Single Occupancy

- (a) Nothing in this consent shall authorise the use of the premises other than for a single occupancy.
- (b) No cooking facilities are to be provided in the ground floor 'Bar' area.

Reason: *To ensure compliance with the terms of this consent.*

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 Kevin Short

Date _____