

Mr A Donaldson

**Notice of Determination of a Development Application**  
issued under the *Environmental Planning and Assessment Act 1979*  
Sections 4.16, 4.17 and 4.18(1)(a)

**Development Application No:** DA/4334/2022  
**Applicant:** Mr A Donaldson  
**Property Address:** Lot 5 Sec E DP 9391  
17 Myall Street, ETTALONG BEACH NSW 2257  
**Proposal:** Secondary Dwelling & Garage  
**Determination:** Approved  
**Determination Date:** 23 October 2023

**Date from which this consent operates**

In accordance with Section 4.20 of the *Environmental Planning and Assessment Act 1979*, this consent becomes effective and operates from the date of this notice being 23 October 2023.

**Consent to lapse on**

23 October 2028

**Imposition of conditions**

Subject to the provisions of Section 4.17 of the Act this Consent has been granted subject to conditions annexed to this consent.

**Review of Determination**

Subject to provisions of Sections 8.2, 8.3, 8.4 and 8.5 of the Act the applicant may make an application seeking a review of this determination, providing it is made in time for Council to determine the review within six (6) months of this determination.

**Right of Appeal**

Sections 8.7 and 8.10 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court within six (6) months, from the date of determination.

On behalf of the consent authority  
David Farmer  
**Chief Executive Officer**

Per:



James Sammut  
**Building Surveyor**

## 1. PARAMETERS OF THIS CONSENT

### Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title	Drawn By	Dated
da01	B	Site Plan	Fiona Brodie Design	20.12.22
da02	B	Floor Plans & Sections	Fiona Brodie Design	20.12.22
da03	A	Elevations & Roof Plan	Fiona Brodie Design	08.12.22

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

**Note:** an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- 1.1. Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.2. Comply with all commitments listed in the BASIX Certificate for the development as required under Clause 97A of the Section 75 Environmental Planning and Assessment Regulation 2021.

## 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1. All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2. Submit an application to Council under section 305 of the Water Management Act 2000 for a section 306 Requirements Letter. The Application form can be found on Council's website [centralcoast.nsw.gov.au](http://centralcoast.nsw.gov.au). Early application is recommended.

The section 305 application will result in a section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate. The requirements letter will outline which requirements must be met prior to each development milestone e.g. prior to construction certificate, subdivision works certificate, occupation certificate and/or subdivision certificate.



- 2.3. Detailed plan and section drawings of the proposed onsite stormwater disposal system including captured areas, absorption systems and any overflow pipes. The drawings will be required to show set back distances from buildings to infiltration devices and drainage easements. Design of the stormwater disposal system is to demonstrate that the absorption trench can absorb the extra full storm flow from the development up to and including the 20%AEP event and include justification of the position that the trench and absorption of water into the subsurface will not affect the structural stability of neighbouring buildings, existing building on the site and the proposed secondary dwelling. The drawings are to be signed off by a qualified hydraulic engineer with indemnity insurance.
- 2.4. Pursuant to Section 7.11 of the *Environmental Planning and Assessment Act 1979*, pay to Council a total contribution amount of **\$9,345.05**, that may require adjustment at the time of payment, in accordance with the relevant Council Contribution Plans No. 31A, 31B, 31C & 31D - Peninsula.

Roadwork - Capital	B	(Key No 789)	\$509.50
Open Space - Land	C	(Key No 791)	\$1,470.00
Open Space - Embellishment	C	(Key No 790)	\$4,648.50
Community Facilities - Land	D	(Key No 793)	\$72.00
Community Facilities - Capital	D	(Key No 792)	\$1,304.10
Drainage - Land	A	(Key No 787)	\$244.00
Drainage - Capital	A	(Key No 788)	\$1,096.95
TOTAL AMOUNT			<b>\$ 9,345.05</b>

The total amount must be indexed each quarter in accordance with the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician as outlined in the contributions plan.

Contact Council's Contributions Planner on (02) 4306 7900 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies that the contributions have been paid. A copy of this receipt must accompany the documents submitted by the certifying authority to Council under of the Section 59 Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

A copy of the Contribution Plan may be inspected at the office of Central Coast Council, 2 Hely Street Wyong or on Council's website: [Development Contributions - former Gosford LGA](#)

### 3. PRIOR TO ISSUE OF ANY SUBDIVISION WORKS CERTIFICATE

No Conditions

### 4. PRIOR TO COMMENCEMENT OF ANY WORKS

- 4.1. All conditions under this section must be met prior to the commencement of any works.



- 4.2. Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight-fitting lid and be suitable for food scraps and papers.
- 4.3. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
  - diverting uncontaminated run-off around cleared or disturbed areas, and
  - preventing the tracking of sediment by vehicles onto roads, and
  - stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- 4.4. Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site.

Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
  - b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
  - c) be a temporary chemical closet approved under the Local Government Act 1993.
- 4.5. Appoint a Principal Certifier for the building work:
- a) The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
  - b) Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- 4.6. Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
- a) The name, address and telephone number of the Principal Certifier for the work; and
  - b) The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
  - c) That unauthorised entry to the work site is prohibited.
  - d) Remove the sign when the work has been completed.
- 4.7. Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the *Plumbing and Drainage Act 2011* (to be provided by licensed plumber).

These documents can be found on Council's website at: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)

Contact Council prior to submitting these forms to confirm the relevant fees.

## 5. DURING WORKS

- 5.1. All conditions under this section must be met during works.
- 5.2. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00 am and 5.00 pm on Monday to Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- 5.3. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

"relic" means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance; and

"Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. To ensure the protection of objects of potential significance

- 5.4. Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 5.5. Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.



- 5.6. Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the *Plumbing and Drainage Act 2011*.
- 5.7. Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 5.8. While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

## **6. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE**

- 6.1. All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 6.2. Obtain the Section 307 Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements for the development from Central Coast Council as the Water Supply Authority, prior to issue of the Occupation Certificate.
- 6.3. Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.
- 6.4. Obtain a satisfactory plumbing and drainage final inspection in accordance with the requirements of the *Plumbing and Drainage Act 2011*.

## **7. PRIOR TO ISSUE OF ANY SUBDIVISION CERTIFICATE**

No Conditions

## **8. PRIOR TO OCCUPATION OF THE MANUFACTURED HOME**

No Conditions

## **9. ONGOING**

- 9.1. Direct all lighting associated with the secondary dwelling in such a manner that no nuisance or adverse impact will be caused to adjoining properties.
- 9.2. Do not adapt or use the non-habitable garage or outbuilding for residential, commercial or industrial purposes.



## 10. PENALTIES

Failure to comply with this development consent and any condition of this consent may be a **criminal offence**. Failure to comply with other environmental laws may also be a **criminal offence**.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

### Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

## ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
  - a) Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
  - b) Jemena Asset Management for any change or alteration to the gas line infrastructure
  - c) Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
  - d) Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
  - e) Central Coast Council in respect to the location of water, sewerage and drainage services.
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- Dial Before You Dig  
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.



It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

- Telecommunications Act 1997 (Commonwealth)  
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.