

Notice of Determination

Under Section 4.16, 4.17, 4.18(1)(a) and Schedule 1, Clause 20(2) of the Environmental Planning and Assessment Act 1979 (NSW).

Our Ref: DA 83/2018; TPA 2661/121; EF07/85 - nfg/kw

Development consent is granted to development application 83/2018 subject to the conditions in Schedule 2.

Notice is hereby made under Section 4.18 of the Environmental Planning and Assessment Act 1979 (the Act) of a Development Consent issued under Section 4.16 of the Act, for the development described below. This notice is also given pursuant to the requirements of Schedule 1, Clause 20(2) of the Act.


The consent should be read in conjunction with the reasons for determination and reasons why the conditions have been imposed contained in Schedule 1 and conditions contained in Schedule 2. Details of any approvals under Section 4.46 of the Act are included in Schedule 3.

DETERMINATION DETAILS

Determination Outcome:	Approval, subject to conditions
Date of determination:	27 September 2018
Date from which the consent operates:	11 October 2018
Date on which the consent shall lapse: (unless physical commencement has occurred)	11 October 2023

APPLICATION DETAILS

Application No:	83/2018
Applicant's Name:	Mrs A J Harris
Applicant's Address:	Perception Planning PO Box 107 CLARENCE TOWN NSW 2321
Property Address:	LOT: 26 DP: 6253, 693 Alison Road ALISON
Description of Development:	Single Storey Dwelling, attached Carport & Garage



Coralie Nichols
General Manager

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SCHEDULE 1

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

That the proposed dwelling at Lot 26 DP 6253, 693 Alison Road, Alison be approved subject to the conditions in Annexure 'A' and for the following reasons:

- The proposed development is not inconsistent with the aims of SEPP (Rural Lands) 2008 in that:
 - a. there will be an orderly and economic use and development of rural lands for rural and related purposes
 - b. the conditions of consent will reduce land use conflicts taking account of the current and approved use of this and the adjoining parcel of land
- The proposed development is not inconsistent with the RUI Primary Production zone objectives in that the current and approved land use of this land and adjoining land is the same.
- The development standard set by the Dungog DCP No. 1, C3 is to provide guidance and give effect to the Dungog LEP 2014 and to facilitate development that is permissible under that LEP but it is not a statutory requirement.
 - a. The width of the allotment is less than 200 metres and it is unreasonable to apply the standard to the building line setback
 - b. It has been demonstrated to the satisfaction of Council that there is compelling justification to vary the building line setback to 20m from the side boundary due to:
 - I. The sloping nature of the site
 - II. The impact of telephone and electricity lines on available building envelopes
 - III. The evidence of long-term neighbours of the impact of water and wind on the site
 - IV. The increased bush fire risk in building on piers, as are required, when building not less than 50m from the boundary.
- The conditions of consent take account of the only objection and satisfy the neighbour who lodged that objection.
- The reduction in the building line setback is not inconsistent with prior approvals in the neighbourhood.

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REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's Approval;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.

SCHEDULE 2

Prescribed Conditions

1. The work must be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position on any site on which building work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, being carried out, but must be removed when the work has been completed.

4. Residential building work within the meaning of the Home Building Act 1989 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 following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - a. the name and licence number of the principal contractor, and
 - b. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - a. the name of the owner-builder, and

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- b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (d) becomes 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.

5. If the development requires a BASIX certificate, fulfilment of the commitments listed in each relevant BASIX certificate.

General

6. This development consent incorporates plans/and or documents referenced and stamped:

(a) Plans Reference: Sorensen Design & Planning

Drawing No	Issue	Name Of Plan	Date
1/7	B	Locality Plan	3/7/18
2/7	B	Part Site Plan Proposed	3/7/18
3/7	B	Floor Plan	3/7/18
4/7	B	North & West Elevations	3/7/18
5/7	B	South & east Elevations	3/7/18
6/7	B	Section A-A Southern Views	3/7/18
7/7	B	Stormwater Management Plan	3/7/18
01	-	Landscape Plan	Sept 2018

(b) Document Reference:

Document	Reference	Author	Date
Statement of Environmental Effects, except as modified by the conditions of consent and amended plans referenced		Sorensen Design & Planning	
Bushfire Assessment Report		Perception Planning	10 Aug 2018
Basix	936744S	Evergreen Energy Consultants	15 June 2018

7. The development shall be undertaken in accordance with the approved plans and any amendments in red by Council.
8. A Section 88B instrument shall establish the following title encumbrance with council being nominated as the sole authority to release, vary or modify the encumbrance.

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The terms of the positive Covenant shall require the registered proprietor of the land to maintain landscape planting in accordance with the Landscaping Plan approved by Dungog Shire Council

9. A drinking water supply with a minimum capacity of no less than 20, 000 litre shall be provided for domestic use in a association with the dwelling.

Note

The drinking water storage tank may be combined with any required dedicated water supply provided for bushfire fighting purposes.

10. The water storage shall be no less than the combined total of the drinking water supply and dedicate water supply required for fire fighting purposes. The lower portion of the water storage tank shall dedicated for fire fighting water supply only and be fitted with 65mm storz fitting and metal ball valve. The entire water storage tank shall be non flammable or shielded from the bushfire threat by way of a noncombustible barrier.

Roof water from the dwelling shall be conducted to the water storage tank in accordance with the BASIX requirements. All roof water drainage works shall be undertaken in accordance with the Building Code of Australia (BCA) Part 3.5.2.

All overflow from roof water tanks shall be piped clear of building foundations, dispersed by way of a minimum 1.2 m long level spreader located at ground level parallel to the existing contours and a minimum 3m clear of any boundaries, in such a manner so as not cause nuisance to adjacent properties.

11. The landscaping shall be installed and maintain for the life of the development.
12. Colour of the external materials of the dwelling house and rainwater tank are to be chosen from the following colour schemes:
- a) *1/2 strength lexicon, white woodwork, beams, garage, posts, ironstone (matt) roof (or similar colour) or*
 - b) *light beige, white woodwork, shale grey roof (or similar colour) or*
 - c) *soft lime, white woodwork, shale grey roof (or similar colour).*

Bushfire

13. At the commencement of building works the property around the building shall be managed as follows:
- North for a distance of 20 metres (or to the boundary of the property) as managed grassland;
 - East for a distance of 50 metres (or to the boundary of the property) as managed grassland;
 - South for a distance of 50 metres (or to the boundary of the property) as managed grassland

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- West for a distance of 50 metres (or to the boundary of the property) as managed grassland,

as outlined within section 4.1.3 and appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

14. The property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following condition shall apply:
 - a) Property access roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.
 - b) A minimum carriageway width of 4 metres is provided.
 - c) A minimum vertical clearance of 6 metres to any overhanging obstruction, including tree branches.
15. A 20, 000 litre dedicated water supply tank (non flammable or shielded from the threat) shall be provided for bushfire fire fighting purposes. The tank shall be fitted with 65mm storz fitting and metal ball valve installed in the tank for connection to local fire service appliances.
16. The development shall be constructed to Bushfire Attack Level 12.5 as defined under the provisions of Australian Standard 3959 – 2009 'Construction of Buildings in bushfire prone areas'.

Prior to the issuing of a Construction Certificate

17. Prior to the commencement of building works an application for onsite effluent waste water management shall be submitted to and approved by Dungog Council.
18. Prior to the issue of any Construction Certificate an application shall be submitted to and approved by council under Section 138 of the Roads Act 1993 for the construction of a driveway/footpath crossing.
19. Prior to release of any Construction Certificate a detailed landscaping plan prepared by a suitably qualified professional shall be submitted to and approved by council.
20. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bush Fire with plant types to be selected from, Australian Standard 3959 – 2009 APPENDIX H, BUSHFIRE-RESISTING SPECIES and/or other BUSHFIRE-RESISTING SPECIES or an alternative species classified as bushfire tolerant vegetation types.

Prior to Commencement of Works

21. Prior to commencement of building works where required a copy of the Home Owners Warranty insurance or a copy of the Owner Builders permit, shall be submitted to council. Be advised NO INSPECTIONS will be undertaken until the required information is supplied to council where required.
22. Prior to the commencement of work for the construction of the dwelling, it will be necessary to obtain a Construction Certificate. Where Council is not the Principal Certifying Authority

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(PCA), the proponent or private certifier shall submit a Construction Certificate to Council prior to building works commencing on the subject allotment.

During Construction

23. During construction of the dwelling the draft terms of a Conveyancing Act Section 88b shall be submitted to council for review intended to make provision for the ongoing maintenance and care of the required landscaping as detailed in the conditions of consent. The Deposited plan shall be updated to include the location of the landscaped area.
24. Buildings to be set out by a Registered Surveyor to ensure compliance with this consent, and the approved plan/s, and a copy of plan to be supplied to the principal certifying authority prior to the pouring of any concrete slabs.
25. There is to be no construction works, including deliveries on or to the site prior to 7.00 am or after 6.00 pm Monday to Friday, prior to 8.00 am and after 6.00 pm Saturday.
26. Approved toilet facilities are to be provided, at or in the vicinity of the work site on which the work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every twenty (20) persons employed at the site. The provision of toilet facilities in accordance with the Clause must be completed before any other work is commenced.
27. A waste containment facility to Council's requirements is to be provided on the building site immediately after the first concrete pour for the building and is to be regularly serviced.

Council may issue "on the spot" fines if breaches of the Environmental Offences and Penalties Act, are detected.

Note - your attention is drawn to your responsibility to control any litter arising from building works associated with this consent.

28. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
29. ALL EXCAVATED OR FILLED AREAS are to be BATTERED to a slope of not greater than 45 degrees to the horizontal, or alternatively, be retained by a retaining wall. Where the height of the retaining wall exceeds 1000mm, duplicate copies of structural details, prepared by a practicing Structural Engineer, are to be submitted to and approved by the Principle Certifying Authority prior to their construction. All excavated and filled areas are to be drained to the satisfaction of Council
30. To minimise soil erosion during construction, the owner and builder shall ensure that the following measures are implemented in the sequence outlined:-
 - (i) A dish shaped diversion drain or similar structure will be constructed above the proposed house site to divert run-off to a stable discharge area such as an area with a grass cover. (This diversion drain is to be lined with turf or otherwise stabilised if it erodes after rainfall).

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- (ii) A sediment trapping fence using a geotextile fabric specifically designed for such a purpose and installed to manufacturer's specifications is to be placed below the construction area (eg "silt stop").
- (iii) Vegetation is to be cleared from the construction site only; other areas are to remain undisturbed.
- (iv) Top soil from the construction site or builders sand is to be stockpiled in a location where it will not be eroded from the site, and is not to be stockpiled on the road reserve.
- (v) All erosion control measures will require maintenance after rainfall. They should be retained until the site has fully revegetated.
- (vi) If soil or other materials are spilt accidentally onto the road or gutter, they shall be removed prior to the completion of the day's work.

All erosion and sedimentation controls are to be installed in accordance with Council's erosion and sedimentation control policy and code of practice.

Failure to implement and maintain all erosion and sedimentation control measures is a breach of the Protection of the Environment Operations Act 1997 and is liable to an on-the-spot fine.

- 31. ALL BUILDING MATERIALS, plant and equipment is to be placed ON THE BUILDING SITE. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves etc.

Prior to Issue of Occupation Certificate or Use of the building

- 32. The building shall NOT BE USED OR OCCUPIED until completed and conditions of consent have been complied with and an Occupation Certificate has been issued.
- 33. Where Council is not the Principal Certifying Authority (PCA), an Occupation Certificate shall be submitted to Council when the building works has been completed and prior to the Occupation of the building.

Note: If the Certificate is being issued by a Private Certifier the certificate is to be lodged with Council not less than forty eight (48) hours prior to the occupation of the building/structure.

- 34. Prior to the issue on an Occupation Certificate or use of the structure for residential purposes a satisfactory final inspection of the waste water treatment system shall be undertaken by Council.
- 35. Prior to the release of any occupation certificate arrangements shall be made with council for the supply and erection of property identification number in accordance with Council's rural addressing program.
- 36. Prior to the release of any occupation certificate all roof water from the dwelling shall be conducted to the water storage tank/s in accordance with the BASIX requirements, with the overflow storm water management system completed in accordance with the conditions of development consent.

Any additional roof water and overflow from the water storage tank/s is to be disposed of in manner so as not to create a nuisance to adjoining properties or to the sewage wastewater disposal area.

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37. Prior to the issue of any Occupation Certificate a driveway layback and footpath crossing shall be installed accordance with the councils Roads Act approval as required by this consent.

Further a satisfactory final inspection for the driveway layback and footpath crossing is to be undertaken by Council officers with written confirmation to be supplied to the Principal Certifying Authority prior to the release of any occupation certificate.

38. Prior to the release of any occupation certificate all bushfire mitigation works shall be completed.

Completed works shall be certified by the principle contractor verifying compliance with all listed requirements.

39. Prior to release of any Occupation Certificate all landscaping required by the conditions of development consent shall be installed.

40. Prior to release of any Occupation Certificate the Conveyancing Act 88b instrument and modified registered Deposited Plan for the required landscaped area shall be submitted to council.

SCHEDULE 3

APPROVAL UNDER SECTION 4.46

Nil

SCHEDULE 4

RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Section 8.2 of the Act, or
- a right of appeal under Section 8.7 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

NOTES

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to Section 4.20 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to Section 4.53 of the Environmental Planning and Assessment Act 1979.