

enquiries refer
David Tyler
In reply please quote
DA: 2018/527



RLA Building Design (Richard Lutze & Associates)
PO Box 216
ALSTONVILLE NSW 2477

Notice to Applicant of Determination of a Development Application

Issued under Section 4.18(1)(a) of the Environmental Planning and Assessment Act 1979

Development Application No:	DA 2018/527
Applicant:	RLA Building Design (Richard Lutze & Associates)
Subject Land:	Lot: 6 DP: 1038254,220 River Drive East Wardell
Development Proposal:	Dwelling alterations/additions and shed as depicted in plans prepared by RLA Building Design dated January 2018
Determination:	The development application has been determined by Ballina Shire Council on 12 October 2018 by way of: the grant of consent subject to the conditions specified below:

GENERAL CONDITIONS

1. Acid Sulfate Soils may be encountered when carrying out excavation works. All excavated material shall be monitored and should Acid Sulfate Soil material be disturbed, it is to be stored separately to non- Acid Sulfate Soil, banded and treated with lime to neutralise any acid production from the oxidation process.
2. The floor level of the dwelling additions is to be as high as practical and no lower than the existing floor level. Flood compatible materials are to be used, where practical below the level of 4.0m AHD.
3. If the existing OSSM system requires alterations and/or additions or a new system is to be installed, as separate application under Section 68 of the Local Government Act is to be lodged with Council. As the property is within the zone of influence for "Priority Oyster Aquaculture Areas" the application would need to address the Ballina Shire Council OSSM Guidelines and DPI requirements.
4. The shed is to be constructed and used in accordance with the following:

- a. The finished floor height of the building is to be at a minimum level of 2.7m AHD. Compliance with this level is to be confirmed at completion of slab formwork, prior to concrete pour and a surveyor's certificate verifying the level submitted to the Principal Certifying Authority prior to work proceeding beyond floor level.
 - b. The fill pad is to be as close as practical to 2.7m AHD and extend around the building for a distance of not less than 3 metres.
 - c. All electrical switches and outlets are to be at a minimum level of 4.0m AHD (i.e. 1.3m above floor level).
 - d. Prior to issue of an Occupation Certificate for the shed, a survey certificate of the AHD floor level of the building is to be provided to the Principal Certifying Authority.
 - e. Prior to issue of an Occupation Certificate, the internal driveway and vehicular access crossing is to be constructed in accordance with the conditions of consent and Section 138 approval.
 - f. No internal partition walls or mezzanine floors are to be constructed in the shed other than those included on the stamped approved plans.
 - g. The use of the shed is to be ancillary to the residential or farming activities carried out on the land. The shed is not to be used for the processing of produce from off-farm sources or commercial activities not associated with the land.
5. **NCC Compliance.** All building work is to comply with the requirements of the *National Construction Code* and relevant Australian Standards.
 6. **BASIX Compliance.** The development is to be constructed in accordance with the BASIX commitments as depicted in the approved BASIX Certificate, or as amended, that has accompanied the development application.
 7. In accordance with Ballina Council's Development Control Plan 2012 Chapter 2 section 3.6 'Mosquito Management' all windows, external doors and other openings must be provided with effective insect screening. For habitable rooms containing large openings that are impractical to effectively screen (such as bi-fold doors) when the opening is closed the room must have light and ventilation available that meets the provisions of the Building Code of Australia via other openings (or other means) that are effectively screened.
 8. All excavated and filled areas are to be stabilised by battering or retaining. Batters are to have a maximum slope of 1:1 and be revegetated on completion
 9. All proposed driveways within the property boundary are to be constructed of all weather, dust free construction. All driveway areas are to be adequately graded and drained to the stormwater system to ensure that stormwater is not directed onto adjoining properties. Grades over 12% must be sealed.
 10. All roof stormwater is to be piped to a discharge point a minimum of three (3) metres clear of the building and discharged in a manner so as it does not cause nuisance to other properties or damage to the environment or other structures. A protective concrete surround and spillway is to be provided to the outlet(s).

11. Stormwater sensitive design techniques are to be adopted. This is to include the shaping of driveways and paved areas to drain to landscaped/vegetated areas or grassed infiltration strips. Pervious paving is encouraged where possible.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

12. In accordance with Section 6.8 of the EP & A Act a Construction Certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.
13. Prior to release of Construction Certificate for the dwelling additions, the Accredited Certifier is to assess the required stress pressure and water penetration resistance (Pascal ratings) for the glazing to the building.
14. Prior to issue of a Construction Certificate for the shed building, a separate application under Section 138 of the Roads Act is to be lodged with Council along with payment of the applicable fee for the construction of a vehicular access crossing in accordance with The Northern Rivers Local Government Design and Construction Manual drawings.

PRIOR TO WORK COMMENCING

15. Where Council is not chosen as the Principal Certifying Authority, the relevant certificate registration fee and required sewer inspection fees are to be paid to Council in accordance with Council's Fee Schedule, prior to work commencing.
16. **Issue of construction certificate**
The erection of a building and construction of the swimming pool under the terms and conditions of this Development Consent must not be commenced until:
 - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) *The Council; or*
 - (ii) *An accredited certifier; and*
 - (b) The person having the benefit of the development consent has appointed a Principal Certifying Authority and has notified the Council (if Council is not the principal certifying authority) of the appointment; and
 - (c) The person having the benefit of the development consent has given at least two (2) days notice to the Council of the person's intention to commence the erection of the building or construction of the swimming pool.
17. A survey peg-out is to be carried out by a surveyor to establish the correct position of the boundaries of the allotment before any building work commences, unless all the existing survey pegs can be located. The building is to be located clear of Council easements and sewer mains.

DURING CONSTRUCTION

18. For the purposes of residential amenity, any building work involving the use of noisy mechanical plant and noisy equipment must only be carried out within the following hours:
- | | |
|----------------------------|----------------------|
| Monday to Friday: | 7.00am to 6.00pm |
| Saturdays: | 8.00am to 1.00pm |
| Sundays & Public Holidays: | No noisy work at all |
19. For the control of litter, a suitable waste container for holding lightweight building materials must be made available on the building site during the course of the building work. Building waste such as paper, plastic, cardboard sarking etc. must be regularly cleaned up and placed in the waste container so that it cannot be blown off the building site and litter the local environment.
20. For the purposes of health and amenity, a temporary builder's toilet is to be provided on site before building work commences. Such facility is to be either connected to Council's sewer or a suitable approved portable chemical closet is to be provided.
21. A single all weather temporary accessway is to be provided on site that extends from the kerb to the building construction site. All construction vehicles are to enter and exit the site via this accessway so as to minimise erosion on site and prevent the movement of soil material onto roadways. When necessary, roadways shall be swept and all drains and gutters cleaned of sediment material. **Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.**
22. To prevent the pollution of waterways, the applicant/builder is to ensure adequate sediment and erosion control measures are in place prior to the commencement of works on site and are to be maintained during the construction of the project until the site has been stabilised by permanent vegetation cover or a hard surface. This is to include:
- The prevention of soil erosion and the transportation of sediment material into any roadway, natural or constructed drainage systems, watercourse and/or adjoining land.
 - Service trenches are to be backfilled as soon as practical.
 - Downpipes are to be connected as soon as practical or otherwise temporary downpipes are to be used.
 - Buffer vegetation zones are to be retained on sites that adjoin roadways, drainage systems and/or watercourses.
 - Sediment and erosion control measures are to be maintained throughout the construction process and beyond by the owner, where necessary.
- Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.**
23. Suitable covering and protection is to be provided to all stockpiles to ensure that no material is removed from the site by wind, causing a nuisance to neighbouring properties.
24. **ASBESTOS REMOVAL** Where building or demolition work involves disturbance, removal or repair of friable or non- friable (bonded) asbestos the following applies:
- Work involving asbestos removal work (inclusive of repair or disturbance) that involves any amount of friable asbestos or non-friable asbestos (formerly known as

bonded asbestos) that exceeds 10 square metres, must be undertaken only by a person who carries on a business of such removal work in accordance with the appropriate licence under Part 8.10 Division 1 of the Work Health and Safety Regulation 2011;

- b) The person having the benefit of this consent must provide the Principal Certifying Authority (PCA) and/or consent authority with a copy of a signed contract with such a person before release of the Construction Certificate and or commencement of works;
- c) Any such contract must indicate whether any friable or non- friable asbestos will be removed, and if so, must specify the approximate amount (m²) and the landfill site (that may lawfully receive asbestos) to which the friable or non-asbestos material is to be delivered. Note: Ballina Shire Council's Waste Facility is NOT currently licenced to receive any material containing asbestos;
- d) In accordance with clause 79 of the *Protection of the Environment Operations (Waste) Regulation 2014* information relating to the movement of any load in NSW of more than 10m² of asbestos sheeting, or 100 kilograms of asbestos waste must be provided to the EPA. To fulfil these requirements waste transporters must use *WasteLocate*. Receipts for disposal shall be retained as evidence of proper disposal;
- e) Notification of asbestos removal work shall be provided to Council, NSW Safe Work and neighbours in the vicinity of the asbestos removal site;
- f) The asbestos removal site shall be adequately fenced and signed prior to any asbestos repair, disturbance or removal; and
- g) A suitably qualified person is to undertake a clearance inspection following the asbestos removal work and have a clearance certificate issued in accordance with the requirements of section 473 and 474 of the Work Health & Safety Regulation 2011. A copy of the clearance certificate is to be provided to Public and Environmental Health Section of Council.

Refer to Ballina Shire Council website fact sheets ballina.nsw.gov.au for further information on asbestos and your property visit asbestosawareness.com.au

- 25. Any proposed non-recirculating exhaust fans over stoves must not discharge into a roof space. The fan must be taken to the outside air through the roof or the wall.

COMPLETION

- 26. On completion of the building, a BASIX Completion Certificate is to be submitted to Council.
- 27. Prior to the occupation of the dwelling additions and the issue of a Final Occupation Certificate, an Approval to Operate the On-site Sewage Management (OSSM) System is to be obtained from Council.
- 28. Where not existing, the building is to be provided with a street road identification number and mailbox facility. Any proposed mailbox is to comply with the requirements of Australia Post, unless alternate postal arrangements are made.

29. All temporary builder's sheds, amenities, waste storage bins and builder's power pole are to be removed from the site on completion of the building.
30. Public infrastructure, such as kerb and guttering, footpath utility services or road works, damaged as a result of construction works related to the development shall be rectified and reinstated to the satisfaction of Council.
31. Sediment and erosion control measures shall be installed and maintained to control stormwater runoff, until such time the site is stabilised and revegetated.
32. The building is not to be occupied without the issue of an Occupation Certificate by the Principal Certifying Authority.
33. All conditions of consent are to be satisfied prior to issue of a Final Occupation Certificate.

PRESCRIBED CONDITIONS

Division 8A of the Environmental Planning and Assessment Regulation Prescribes the following conditions of development consent

S98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

(cf clauses 78 and 78A of EP & A Regulation 1994)

- (1) For the purposes of section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building works:
 - a) That the work must be carried out in accordance with the requirements of the Building Code of Australia
 - b) 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.

(1A) For the purpose of section 4.17(11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.
- (2) This clause does not apply:
 - (a) To the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) To the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.
- (3) In this clause, a reference to the building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
 - a) Development consent, in the case of a temporary structure that is an entertainment venue, or
 - b) Construction certificate, in every case.

NOTE. There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

B98A Erection of signs

- (1) For the purposes of section 4.17(11) of the Act, the requirements of subclause (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out.
 - a) Showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) 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
 - c) Stating that unauthorised entry to the work site prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

S98B Notification of Home Building Act 1989 requirements

- (1) For the purposes of section 4.17(11) of the Act, the requirements of this clause are prescribed as conditions of a development for development that involves any residential building work within the meaning of the Home Building Act 1989.
- (2) 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:
 - a) the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under part 6 of that Act,
 - b) in the case of work to be done by an owner-builder:

- (i) the name of the owner builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) 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 of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

S98E Condition relating to shoring and adequacy of adjoining property.

- (1) For the purpose of section 4.17(11) of the Act, it is prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

*Please be advised if this consent is for an **entertainment venue**, then there are further prescribed conditions that apply under clauses 98C and 98D of the Environmental Planning and Assessment Regulation.*

Statement of Reasons for Decision and Imposition of Conditions

1. The subject development is permissible with consent in the RU1 Primary Production zone of the Ballina Local Environmental Plan 2012.
2. The subject development has been assessed against the relevant considerations under the Environmental Planning and Assessment Act 1979, including the provisions of all relevant Environmental Planning Instruments, the objectives of the Ballina Local Environmental Plan 2012 and the objectives of the RU1 Primary Production zone. It has been determined that the site is suitable for the subject development and that the development is unlikely to have a significant adverse impact on the natural and built environments and is unlikely to have a significant adverse economic or social impact on the locality.
3. The application was not required to be placed on public exhibition in accordance with Environmental Planning and Assessment Act 1979 or Environmental Planning and Assessment Regulations 2000, an Environmental Planning Instrument or Local Exhibition Policy.
4. No public submissions were received
5. The application has been determined by Council staff under Delegated Authority.
6. The approval of the development is in the public interest.

7. The reasons for the conditions listed in this determination notice are:
- To ensure compliance with the requirements of the Environmental Planning & Assessment Act, 1979;
 - To ensure compliance with the objectives of the Ballina Local Environmental Plan 2012;
 - To ensure an appropriate level of amenities and services is available;
 - To protect the existing and likely future amenity of the locality;
 - To maintain, as far as practicable, the public interest;
 - To ensure compliance with the Building Code of Australia and relevant Australian Standards;
 - To ensure satisfactory compliance with relevant Council plans, codes and policies.

Advisory Note:

The relevant submitted compliance levy contributes to Council's development compliance programme in ensuring all development complies with the approved plans and applicable conditions of consent).

The applicant is advised to take care in ensuring that no damage is done to or unauthorised modifications are carried out on either Council's or any other organisation's underground infrastructure assets. Any Council sewer, stormwater or water main or other organisation owned electricity supply or telecommunication facility is not to be damaged or altered in any way without the necessary approvals being obtained beforehand from the relevant server.

You are advised to contact the following:

- **Council** - for information on sewer, water supply & stormwater, ph 1300 864 444
- **Rous Water** - Water Supply for Rous Water Authority controlled areas, ph 6621 8055
- **Dial Before You Dig** - for other service infrastructure, ph 1100

The information relating to your property is to be obtained prior to any works commencing.

The consent shall lapse on **12 October 2023** unless the development has commenced in accordance with the provisions of section 4.53 of the Act.

Other Approvals: **The following is a list of general terms of other approvals and their general terms which are integrated as part of the consent:**

None applicable.

Signed:



12 October 2018

David Tyler
Development and Environmental Health Group
On behalf of Ballina Shire Council

(For details concerning appeal rights relating to Council's determination, please see below.)

Right of If you are dissatisfied with this decision, Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to appeal to the NSW Land and Environment Court within six months after the date on which you receive this notice.

Except in the case of designated development, there is no provision within the Environmental Planning and Assessment Act 1979 for a third party (objector) to appeal against the consent issued by the Council.

Review of Section 8.3 of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to request the consent authority to review the determination of your application. This request must be made and the review conducted and completed within the time prescribed by Section 8.3(2). A request must be accompanied by the fee prescribed by Section 257 of the Environmental Planning & Assessment Regulation 2000. Review provisions do not apply to:

- (a) a determination in respect of designated development, or
- (b) a determination made by the Council under Division 4.6 in respect of an application by or on behalf of the Crown.