

Conditions of consent DA10.2020.251.1

CONDITIONS OF CONSENT:

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. **Development is to be in accordance with approved plans**

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
H05-00 and H05 - 03	Site Plan and Floor Plan	Whitewood	10/3/20
H05-04, H0-05, and H05-06	Elevations and Sections	Whitewood	10/3/20

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Plumbing to Coffee Cart**

The Coffee Cart is not to be connected to Water and sewer infrastructure at any time.

3. **Repainting the Building**

A schedule of all external finishes and colours, sympathetic to the heritage item, in accordance with the provisions of Byron DCP 2014, is to be submitted to, and approved by Council prior to the building being repainted at any time. The building walls, verandah elements and joinery are to be repainted in a heritage colour scheme authentic to the era of the building. The removal of the paint from the brick work by non-abrasive methods to be incorporated into the work schedule

The following conditions are to be complied with prior to occupation of the building

4. **Works to be completed prior to issue of a Final Occupation Certificate**

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

5. **Building Information Certificate**

Prior to issue of any occupation certificate a Building Information Certificate is required to be issued by Council for the pergola/ fixed seating area. Prior to issue of the Building Information Certificate the applicant is to demonstrate to Councils satisfaction with evidence in the form of detailed report/s from suitably qualified and experienced professionals the constructed works satisfies

- A land survey from a registered surveyor is required with the Building Information Certificate application identifying all structures located upon the subject property and extending into the road reserve including the pergola/fixed seating areas. (Note the 2014 Survey from Cantys is out of date for the purposes of applying for the Building Information Certificate)
- Performance Requirement B of the Building Code of Australia.
- Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate;

6. **Roads Act Approval**

A separate approval under Section 125 of the Roads Act shall be obtained for any footpath seating or Goods & Chattels upon Council footpath.

7. **Landscaping**

The Landscape Bay in the Pergola facing Fletcher Street to be weeded and planted with appropriate flowering plants prior to the issue of the occupation certificate

8. **Banner Signage**

The Banner Sign to not encroach or overhang pedestrian pathways or the footpath/ road reserve.

The following conditions are to be complied with at all times

9. **Coffee Cart**

The coffee cart is to offer for sale takeaway food and beverages only. No table service to be provided at anytime.

10. **Pergola**

The pergola to remain unroofed at all times unless development consent is granted for further alterations and additions to the structure.

11. **Hours of operation of Coffee Cart**

The Coffee Cart is to only operate when the Bookroom is open.

12. **Compliance with Food Standards**

The coffee cart is to comply with the relevant food standards for mobile food vending vehicles at all times.

13. **Landscaping**
Landscaping to be maintained at all times including the vines growing over the pergola.
14. **Signage**
Any signage attached to the verandah posts to be removed as it detracts from the architectural detail and setting of this property being a heritage item under Byron LEP 2014.

SCHEDULE 2. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Condition relating to maximum capacity signage
- Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Note: From July 1 2018, Council's are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.

The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.

The proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed

The DA was advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.

SCHEDULE 4. NOTES

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

Alterations Advice

Owners are advised of the requirements of Clause 5.10 of Byron LEP 2014 in relation to the need to obtain prior consent for works including 'any alterations to the fabric, finish and appearance' of a heritage item. Many works including repainting the building can be approved through a 'no fee', minor works and maintenance application under Clause 5.10 (3). Any future re-roofing should be in authentic galvanised steel or an uncoloured zincalume, with appropriate gutter profiles and would be eligible for heritage grant support.

Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in

relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).