

Conditions of Consent DA10.2020.370.1

Parameters

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:
214 / DD / 01 Rev C	Proposed Site Plan	Space Studio	27/05/2021
	Floor Plans,	Space Studio	27/05/2021
214/DD/05 Rev B and 214/DD/06 Rev A	Elevations	Space Studio	27/5/2021 and 9/06/2020
231/DD/08 and 231/DD/09 Rev A	Sections	Space Studio	15/4/2020 and 27/05/2021
Project Number 0720135	Heritage Conservation Strategy – Greys House, 68 Byron Street, Bangalow NSW	Extent Heritage	7/06/ 2021
LOG21/105	Dilapidation Report with Mark-Ups	Techton	14/12/2020

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.

The following conditions are to be complied with prior to issue of a Construction Certificate for building works

2) Schedule of Heritage works

The schedule of works outlined in the HMS by Extent dated June 2021 and the marked up Dilapidation Report are to be combined and included in one document. The schedule to include the following additional requirements

- i. Details of installation of services such as communication wiring, security and power and light switches between individual rooms and impacts on the historic fabric of the building. Appropriate heritage switches, power points and communication ports to be used throughout the building.

- ii. Mortar - The mortar for repointing of the historic brickwork is to match the colour and composition of the original. (Note- This is likely to be a traditional lime based mortar which is hardened by air drying. Traditional mixes were generally 1 part Lime to 3 parts Sand. Traditional composition mortars generally 1 part cement, 2/3 parts Lime and 9/12 parts Sand. Samples can be sent to specialist firms such as Westox for matching).
- iii. Colour Scheme - Exterior repainting scheme to reinstate a heritage colour scheme authentic to the period, based on physical evidence of paint scrapes matched to the historic photos. The colour scheme to be included in the Schedule of Heritage Works.

The Schedule of Heritage works to be approved as part of the Construction Certificate

3) Heritage Interpretive Signage

A weather-proof Heritage Interpretive Sign to be installed within the front of the property incorporating the following features:

- a. The sign to be visible from the footpath in Byron Street;
- b. It is to have dimensions of between 300 mm x 420mm (A3 sheet) and 420mm x 600 mm (A2 Sheet) and have a height of approximately 1.2m or be attached to the front fence facing Byron Street;
- c. It is to be durable and weather-proof.
- d. The signage must be prepared by a qualified Graphic Designer and the interpretative wording must be prepared by a Heritage expert and comply with the following guidelines: [Interpreting Heritage Places and Items Guidelines \(nsw.gov.au\) / Interpretation Policy 2005.doc \(nsw.gov.au\)](#);
- e. As a minimum the sign to include a photograph of the house from the last century and summary details on when the house was constructed, who the architect and builder were, and information as to how it became known as the Greys House.

Details of the heritage interpretative signage are to be submitted to Council for approval in writing prior to the issue of the Construction Certificate. The Interpretive Sign must be installed prior to the issue of the Occupation Certificate.

4) Construction Certificate Detail

The following detail to be provided with the Construction Certificate:

- a. A report from a Structural Engineer to certify the Structural adequacy of the building prior to the issue of the Construction Certificate;
- b. A fire Safety schedule to be issued with the Construction Certificate; and
- c. Disabled access to be provided to and within the building as per the BCA - cl D3.3. details to be provided with the Construction certificate.

5) Flood Planning Level

The flood planning level for this development is R.L.45.51m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.

6) On-site stormwater detention required

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard consistent with the submitted Concept Stormwater management plan prepared by Ardill Payne and Partners (No. 10198 – SK01 Issue A) dated 16/6/2021. All stormwater drainage for the development must be conveyed via an on-site stormwater detention system by gravity in accordance with the approved plan. Kerb and gutter at the street frontage in Deacon St via a kerb adaptor in accordance with Councils Standard Drawing R-08.

Such plans and specifications must be approved as part of the Construction Certificate. All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

- a) comply with any requirements for the disposal of stormwater drainage and on-site stormwater detention contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and
- b) unless exempt from obtaining an approval under section 68 of the [Local Government Act 1993](#) by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate.

7) Consent required for works within the road reserve

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveway (commercial areas) in Deacon St	A driveway in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings". The footpath crossing must be designed to provide a cross fall of 1 % or 1:100 (maximum 2.5% or 1 in 40) for a width of at least 2.4 metres to provide for pedestrians with access disabilities.
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8) Car parking layout, vehicle circulation and access plans required.

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) 1 x Class 4 car parking in accordance with AS2890.6:2009;
- b) A proprietary bike rack for a minimum of four bikes to be sited within the front yard of the property facing Byron Street for customers;
- c) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete;
- d) site conditions affecting the access;
- e) existing and design levels;
- f) longitudinal section from the road centreline to the car space;
- g) typical cross sections;
- h) drainage details;
- i) turning paths; and
- j) line marking and signage.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

9) Consolidation of Lots

Lots 12, 13 and 14 section 6, DP 4358 to be consolidate into one lot prior to the issue of the Construction Certificate. Details of the lot consolidation and registration to be provided to Council.

10) Planning agreement to be entered into

Prior to the release of a construction certificate the developer shall enter into a planning agreement with Council and shall pay the amount required by the agreement. The planning agreement should be in the following terms, subject to the requirements of the regulations and the standard clauses as required by the Development Contributions Practice note:

- a) The developer is to pay a monetary contribution of \$6,174.00 per car space or a fraction thereof for 10.6 car spaces for a total contribution of \$65,444.40.
- b) This rate is valid until 28 October 2021 at which time the amount may be increased in accordance with the consumer price index (CPI) all groups Sydney, as published by the Australian Bureau of Statistics.
- c) The payment of the contribution be required prior to the release of a construction certificate for the development.
- d) All costs of preparation of the planning agreement are at the developer's expense up to a maximum of \$1 500.

11) Section 7.12 Levy to be paid

The levy will be calculated as follows:

Levy payable = %C x \$C

- **%C** is the levy rate applicable as set out in the latest Ministerial Direction issued under section 7.17.
- **\$C** is the proposed cost of carrying out the development.

The rate of **%C** is:

The cost of development must be calculated in accordance with clause 25J of the Regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 7.12 contributions plan must be submitted to Council with the payment. The cost summary report must be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from Council's website.

12) Water and Sewerage - Section 68 approval required

An Approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

If required, an Approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

Water metering to be in accordance with Byron Shire Council's water metering requirements

See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

Any new water service and meter will be at applicants cost.

13) Site Waste Minimisation and Management Plan

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information www.byron.nsw.gov.au/files/publication/swmmp-pro-forma-.doc

14) Compliance required with Building Over Pipelines Policy

All developments must comply with Policy: Building in the Vicinity of Underground Infrastructure 2020.

The use of displacement and screw pile construction methods will require approval by Council.

A minimum horizontal clearance of 1.5m from the centre is required around existing access structures as well as minimum vertical clearance of 3m from finished ground level is required.

15) Bond required to guarantee against damage to public land

A bond of \$3,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible

for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repaired to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc

The following conditions are to be complied with prior to any building or construction works commencing

16) Heritage Expert to supervise works

A suitably qualified and experienced Heritage Expert or Consultant to be appointed to supervise the works to the Greys Dwelling. Details to be submitted to Council of the heritage expert or consultant prior to works commencing.

17) Erosion and sediment measures

Erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. A full copy may be downloaded from Council's web site at www.byron.nsw.gov.au.

The following conditions are to be complied with during construction

18) Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

19) Construction Noise

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the

construction site is in operation must not exceed the background level by more than 20 dB(A).

- b. For construction periods greater than four (4) weeks and not exceeding twenty six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

20) Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

21) All excavated soils to be disposed of off-site

All excavated soils to be disposed of off-site and in accordance with NSW EPA Waste Classification Guidelines (2014) and approved environmental management plans.

22) Removal of demolition and other wastes

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the NSW EPA Waste Classification Guidelines (2014) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>

23) Excavated natural materials and demolition waste disposal

Any and all excavated natural materials and demolition and builders waste transported from the site must be accompanied (a copy kept with the transporter) by a NSW Protection of The Environment Operations Act s143 Notice. Template s143 Notices are available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/wasteregulation/160095-notices143-form.docx>

24) Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

25) Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

26) Heritage Supervision

The appointed Heritage Expert or Consultant to inspect the site as a minimum of once a week to ensure works are being carried out in accordance with the Schedule of Heritage Works as approved under this Consent and the Construction Certificate.

27) Stormwater drainage work

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.

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

28) 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, 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.

29) Access and parking areas to be completed.

The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent.

30) Signage

Any Business Signage to be limited to two free standing shingle style signs with an area no greater than 0.3m², located at the pedestrian entrance off Byron Street and adjacent to the driveway entrance of Deacon Street within the property. Details are to be submitted to Council for prior approval prior to the issue of the Occupation Certificate being issued.

31) Floor Levels – Certification for Flooding

Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principal Certifying Authority confirming the

height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the floor levels are at or above the relevant flood planning levels. A copy of the floor level certification from the registered surveyor must also be submitted to Council for the attention of Council's Drainage and Flood Engineer.

32) Heritage Certification

Prior to the issue of the Occupation Certificate, the heritage expert or consultant to certify that the works have been completed in accordance with the Heritage management statement and dilapidation report and the Schedule of Heritage works. Details to be submitted to the Principle Certifying Authority with the Occupation Certificate application for approval and a copy to be provided to Council.

33) On-site Stormwater Detention – Certification of works

All stormwater drainage works, including on-site stormwater detention works, for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate. Certificate/s of Compliance and Work-As-Executed (WAE) plans for the stormwater works must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

The certificate/s and WAE plans are to be prepared by a suitably qualified engineer and must be in accordance with Council's [Comprehensive Guidelines for Stormwater Management](#).

The following conditions are to be complied with at all times

34) Use of Premises

The subject building is to be used as (other than a real estate agency) *office premises* as defined under Byron LEP 2014.

*(Note: **office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.)*

35) Hours of Operation

The Office Premises to be open only during the following hours:

- Monday to Friday 8am to 6m
- Saturday 8am to 1pm
- Closed Sundays and Public Holidays

36) Site Waste Minimisation and Management

All works must comply with the objectives of waste minimisation and waste management of Part B8.1.2 of DCP 2014

37) Must not interfere with the amenity of the neighbourhood

The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e) Goods deliveries shall be restricted to daytime operating hours when the premises are open.

Notes

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

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.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.

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).

Fencing

If the front is replaced in the future, it is to match the original diamond top post and rail fence with wire inserts. (The current fence is a flat topped post and rail.)

Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

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 will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Clause 5.10 of Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Development Control Plan 2014
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
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 proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed

The DA was advertised in accordance with Byron Shire Council Community Participation Plan (CPP). The submissions received were considered on merit and addressed during assessment of the application.

To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.