

DA 10.2023.194.1 – 150 Tandy's Lane Brunswick Heads

ATTACHMENT 1 – Council Report – Conditions of Consent

CONDITIONS OF CONSENT**SCHEDULE 1. CONDITIONS OF CONSENT****Parameters of consent**

1. **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.

Title	Version No.	Drawn by	Dated
Existing/Demolition Plans	TP01	Jess Bennett Studio. Architecture & Interior Design	09/05/2023
Proposed Site Plan	TP01	Jess Bennett Studio. Architecture & Interior Design	09/05/2023
Proposed Ground Floor	TP01	Jess Bennett Studio. Architecture & Interior Design	09/05/2023
Proposed Upper Floor	TP01	Jess Bennett Studio. Architecture & Interior Design	09/05/2023
Proposed Roof Plan	TP01	Jess Bennett Studio. Architecture & Interior Design	09/05/2023
Proposed Elevations	TP01	Jess Bennett Studio. Architecture & Interior Design	09/05/2023
Proposed Sections	TP01	Jess Bennett Studio. Architecture & Interior Design	09/05/2023
Cut / Fill Plan	TP01	Jess Bennett Studio. Architecture & Interior Design	09/05/2023
Bulk Earthworks Layout Plan	23069-00-DA-BE-01 Rev A	Terania Consulting Pty Ltd	20/10/2023
Stormwater Concept	TP01	Jess Bennett Studio. Architecture & Interior Design	07/08/2023
Low Impact Traffic Assessment	23069-ENG-REP-01 Rev A	Terania Consulting Pty Ltd	20/10/2023

On-Site Wastewater Management Report, Proposed dwelling at 150 Tandy's Lane, Brunswick Heads	2212-10	North Coast Wastewater Solutions	05/02/2023
<i>Non – Destructive Hazmat Survey Report, 150 Tandy's Lane , Brunswick Heads NSW 2483</i>	ENV217681	ENV Solutions	March 2023
Preliminary Site Investigation, 150 Tandy's Lane Brunswick Heads, NSW 2483	217638	ENV Solutions	April 2023

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.

2. **Car Parking to be available for the approved use**
Parking within the development, together with all driveways and turning areas, must be provided and maintained as follows:
minimum 2 car spaces for each dual occupancy dwelling.
3. **Conditions prescribed by the Regulation**
This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in a **Schedule 2** to this consent.
4. **Bush fire safety measures**
This land is identified as being designated bush fire prone land and under section 4.14 of the Environmental Planning and Assessment Act 1979, Council must be satisfied prior to making a determination for development on bush fire prone land that the development complies with "Planning for Bush Fire Protection 2019".

The development is approved subject to the development complying with the requirements of Report 23/033 Revision B, by Bushfire Certifiers dated 25/04/2023.

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

5. **Certificate of Compliance from Rous County Council– s307 Water Management Act 2000**
Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from Rous County Council confirming that all Developer Charges payable to Rous County Council have been

provided to Rous County Council and all required water supply works have been completed. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

To obtain a Certificate of Compliance, please contact Rous County Council on 0266233800. You will be required to provide your stamped approved plans for assessment of developer charges payable and any water supply works to be undertaken. Rous County Council will issue you an assessment letter with required payment instructions and works instructions (where applicable). Once payment received and works complete (where applicable) a Certificate of Compliance will be issued.

Note: *Rous County Council is the Water Supply provider for the location of the subject development. The applicant must organise the provision of a water service to the development with Rous County Council and provide a Certificate of Compliance from Rous County Council to this Council.*

6. **Construction site management plan**

Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

7. **Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1389425S, dated 04/05/2023.

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the measures may be undertaken without the issue of any amendment under Section 4.55 of the Act, provided that the changes do not affect the form, shape or size of the building.

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

8. **Building materials and colours to be specified**

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 – Character and Visual Impact. Please note that roof colours must be non-reflective earth tone colours and that the use of white and near white roof colours is not permissible.

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

9. **Long Service Levy to be paid**

In accordance with Section 6.8 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable).

These payments can be made online at www.longservice.nsw.gov.au. Proof of payment is required to be submitted with the Construction Certificate application.

For further information regarding the Long Service Payment please refer to the website above.

10. **Onsite Effluent Wastewater systems (Rural Swimming Pools)**

The owner is responsible to ensure works do not conflict with the Onsite Wastewater System (Sewage Management Facility).

Details to be submitted with the Construction Certificate to demonstrate there is no conflict with both the disposal areas, plumbing and treatment/ storage/ septic tanks.

Where required, a S68 Application is to be submitted to Council to relocate any system prior to the issue of the Construction Certificate.

11. **Details of pool fence required**

The application for a Construction Certificate is to include plans and specifications that indicate the details of the fence around the swimming pool in accordance with the Swimming Pools Act 1992 and AS1926.1.

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

12. **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.

The plan is to include a follow up to the Non – Destructive Hazmat Survey Report, Job no:ENV217681 compiled by ENV Solutions, dated March 2023, which investigates further the potential presence of hazardous materials. And should also fully implement the recommendations of this report.

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

13. **Tree Removal**

No trees or vegetation to be cleared or removed until a Construction Certificate has been issued.

14. **Insect screening required**

The application for a Construction Certificate is to include plans and specifications that provide effective insect screening to all windows, doors and other openings to all parts of the development used for habitable purposes.

Such plans are to be approved as part of the Construction Certificate.

15. **Rainwater tanks**

Rural dwellings without reticulated water must have minimum domestic tank capacity to ensure that adequate water supply is available.

The plans submitted for approval of the Construction Certificate must demonstrate that the approved rural dwelling has a dedicated minimum domestic tank capacity of 40,000 litres, exclusive of any additional water storage required for firefighting purposes required by this development consent.

Such plans are to be approved as part of the Construction Certificate.

16. **Section 68 Approval Required – Connection of Drains**

An approval under Section 68 of the Local Government Act 1993 for installation of fittings and fixtures and connection of drains to the existing sewage system must be obtained from Council. Such approval must be issued after the date of this consent. The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which evaluates the existing sewage management system contained on the subject property to ascertain whether any repairs or upgrades are required. Site specific design of sewage management must be in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

17. **Earthworks Plans**

The application for a Construction Certificate is to include plans and specifications for the earthworks including but not limited to details for Level 1 Inspection and Testing be undertaken in accordance with AS3798.

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority, certifying that the earthworks design is in accordance with the relevant Australian Standards.

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

18. **Cultural Heritage Site Inspection report**

A Cultural Heritage Site Inspection Plan to be prepared and approved by Council prior to the issue of the Construction Certificate incorporating site inspection protocols for officers from the Tweed Byron Aboriginal Land Council and or the Arakwal Corporation to be engaged to monitor the site in relation to the protection of Aboriginal Cultural items and objects that may be disturbed during the construction of the development. The plan to be prepared by a suitably qualified archaeologist and is to include a letter of support or certification from the Land Council or the Arakwal Corporation.

19. **Plans of retaining walls and drainage**

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

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

20. **Stormwater Drainage**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. The stormwater drainage for the development must be designed and modelled 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.

Stormwater drainage for the development must provide measures to address the “key” pollutants in accordance with Table B3.2 of DCP 2014 for all stormwater flows up to 25% of the 1 year ARI peak flow from the development site. A certificate from a professional Engineer experienced in stormwater quality modelling is to be provided to the Principal Certifying Authority, certifying that the stormwater design is in accordance with this requirement.

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a) Clear of buildings and infrastructure,
- b) Clear of effluent disposal areas,
- c) Not concentrated so as to cause soil erosion,
- d) Not directly to a watercourse, and
- e) Not onto adjoining land.

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

21. **Consent required for Works within 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:

a) Driveway Upgrade

The existing driveway must be upgraded to comply with Council's current standards, in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings.

22. Traffic Management Plan (TMP)

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Management Plan (TMP) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development and must address, but not be limited to, the constraints and mitigation measures of the approved traffic assessment. The TMP is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The report must incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TMP and associated traffic guidance scheme/s must be prepared by a suitably qualified Transport for NSW accredited person.

23. Access & Parking

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. Plans are to include, but not be limited to, the following items:

- a) minimum 150mm compacted pavement, sealed for grades greater than 12%;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal and cross sections;
- e) drainage details; and
- f) access requirements of any bushfire conditions.

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".

24. Soil and Water Management Plan

The plans and specifications to accompany the Construction Certificate application are to include a soil and water management plan to indicate the measures to be employed to control erosion and loss of sediment from the site. The soil and water management is to be designed in accordance with the requirements of the NSW Department of Housing Manual (1989), Managing Urban Stormwater, Soils and Construction.

A suitably experienced person must prepare the soil and water management plan.

Suitably experienced people include those certified by:

- The Institution of Engineers, Australia, for engineering and hydrology matters.

- The International Erosion Control Association for soil conservation matters.
- The Australian Society of Soil Science for collection or analysis of soil data.

The plan must incorporate (without being limited to) information on general site management, material handling practices, soil stabilisation, water control, sediment control, wind erosion control and access measures.

25. Bond required to guarantee against damage to public land

Prior to issue of any Construction Certificate, a bond of \$20,000 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 and an assessment of the road pavement on Tandy's Lane by a suitably qualified engineer. 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 furnished with road pavement assessment by a suitably qualified engineer confirming that the any road pavement damage has been repaired and 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 or other assets.

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

26. Imported Fill Material

All fill material imported to the site for the purpose of the development must be from a clean source. Documentation must accompany the material certifying it as clean or virgin material. A copy of the certification must be provided to Council prior to any building work or construction commencing.

27. Soil and Water Management Plan

Erosion and sedimentation controls are to be in place in accordance with the approved Soil and Water Management Plan.

Sediment and erosion control measures in accordance with the approved Soil and Water Management Plan must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

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

28. Traffic Management Plan

The approved traffic management plan is to be implemented.

29. Toilet facilities

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council or be a building and construction site portable chemical toilet.

Only one (1) such portable chemical toilet may be used during construction, should additional toilets be required during the construction they must be either:

- a. Connected to an accredited sewage management system approved by the Council.
or
- b. Not installed or used until such time that approval under Section 68 of the Local Government Act 1993 is obtained for the installation of a human waste storage facility.

Note: The chemical toilet must be installed and serviced by a licensed contractor (including pump-outs)

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

30. Hours of work

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7am to 6pm on Monday to Friday.
- 8am to 1pm on 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.

31. Construction Noise

While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

OR

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

32. Implementation of BASIX commitments

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.

33. **Signs to be erected on building and demolition sites**

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

34. **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.

35. **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.

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

36. **Removal of asbestos**

All asbestos wastes associated with removal of the existing building to be disposed of in accordance with the requirements of the Workcover Authority. The applicant/owner is to produce documentary evidence that this condition has been met.

Please note the Byron Resource Recovery Centre can not accept asbestos. You will need to arrange disposal at an alternate landfill site.

37. **Maintenance of Soil and Water Management Measures**

Erosion and sedimentation controls are to be in place in accordance with the approved Soil and Water Management Plan.

38. **Demolition**

Any required demolition works must be undertaken in accordance with the relevant requirements of Australian Standard AS 2601–1991: The Demolition of Structures published by Standards Australia, and the WorkCover Authority of NSW.

39. **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 \(2014\)](#)

40. **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](#).

41. **Muted bushland tones external finishes**
To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright roof colours are not permissible.
42. **Cultural Heritage Site Inspection Plan**
The Cultural Heritage Site Inspection Plan to be complied with at all times.

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

43. **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.
44. **Swimming pool fencing**
Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.
45. **Compliance with bushfire conditions**
Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination have been complied with.
46. **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 prior to the issue of an occupation certificate.
47. **Stormwater disposal**
Stormwater drainage for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate.
48. **Certificates for Earthworks**
Prior to issue of any occupation certificate, a copy of all test certificates for the earthworks, together with a certificate from a suitably qualified engineer certifying that all earthworks have been constructed in accordance with the approved plans and relevant Australian Standards, must be submitted to the principal certifier.
49. **Repair of damage to public land**
Prior to issue of any occupation certificate, a road pavement assessment prepared by a suitably qualified engineer must be submitted to the principal certifier confirming that any road pavement damage caused by the development works has been repaired to

pre development conditions or better in accordance with a Roads Act consent issued in respect of the works.

50. **On-site Sewage Management system must be completed**

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

51. **Approval to Operate required**

In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.

The following conditions are to be complied with at all times

52. **Use of the dwelling house**

The dwelling house is not to be holiday let or used as tourist and visitor accommodation or as **short-term rental accommodation**.

53. **Pool Safety Sign**

The occupier of the premises must ensure that there is at all times a sign in the immediate vicinity of the swimming pool bearing the words 'Young children must be supervised when using this swimming pool'. The sign is to be a prominent position and be otherwise in accordance with clause 9 of the Swimming Pools Regulation.

A pool resuscitation sign is to be installed in a conspicuous location within the pool area to the satisfaction of the Principle Certifying Authority.

54. **Pool backwash in rural areas**

Pool water disposal and backwash is to be directed to a soakage trench located in such a location as to not cause any nuisance to adjoining properties or damage to any structures.

55. **Swimming Pool Fencing**

Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.

56. **Swimming pool health requirements**

The swimming pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council and NSW Health. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times

57. **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.

58. **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.

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 complies with Environmental Planning & Assessment Regulation 2021 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 notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.

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 for a Construction Certificate must be made online using the [NSW Planning Portal](#).

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.

Aboriginal Relics

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 regard:

- "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.

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).

Fire Ants

The importation of any of the following material from Queensland invasive ant biosecurity zones must be in accordance with the [Biosecurity \(Invasive Ant Carriers\) Control Order 2023](#) (including any revised orders made under the Biosecurity Act 2015) and meet the requirements of NSW Department of Primary Industries:

- organic mulch (which includes manure, bark, wood chips, hay, straw, silage, and sugar cane bagasse);
- baled materials;
- potted plants;
- agricultural or earth-moving machinery;

- fill or soil (which includes anything with soil on it such as turf); and
- mining or quarrying materials.

Prior to the importation of each material type, the supplier must provide the receiver and the Principal Certifying Authority with the relevant Certificate as identified within the Biosecurity (Invasive Ant Carriers) Control Order 2023 or revised biosecurity control orders. All material shall meet the requirements of the relevant Certificate.

It is an offence under the Biosecurity Act 2015 if this material comes from within five kilometres of a known invasive ant infested area (e.g. identified Fire Ant Biosecurity Zones in Queensland), or any other place at which the person knows, or ought reasonably to know, that an invasive ant has been detected, unless the carrier material has been managed and treated to reduce the risk and meets the certification requirements listed in the Control Order.