

10.2020.230.1
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:
Plan 1	Site Plan	unknown	Received 04/06/20
Plan 2	Floor Plan	unknown	Received 04/06/20
Plan 3	Elevation	unknown	Received 04/06/20

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. **Time limited consent**
This consent is granted for a period of two (2) years from the date of determination.
- Within thirty (30) days of the expiration of this two (2) year period, the nursery structure must be removed from the site and the area returned to its previous condition before the nursery structure was installed on the site.
3. **Unauthorised structures to be demolished**
The existing shade structure located immediately adjacent to the northern elevation of the nursery structure must be demolished and removed from the site unless separate development consent is sought ***within sixty (60) days of the date of issue of this consent***
- The structures identified in red on the stamp approved Site Plan Received 04/06/20 must be demolished and removed from the site unless it can be demonstrated that the structures are exempt development or separate development consent is sought ***within sixty (60) days of the date of issue of this consent.***
4. **Stormwater Drainage – Section 68 Approval required**
Section 68 approval is required for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed by a gravity system to an infiltration trench or trenches complying with the requirements of Council's *Comprehensive Guidelines for Stormwater Management*.
- The infiltration trench or trenches must be designed by a qualified practising Civil Engineer to fully infiltrate the 20 year ARI runoff from all impervious areas of the proposed development for all storm durations without surcharge onto neighbouring properties. 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 Section 68 approval.
5. **Engineers certification required**

Engineers certification demonstrating structural adequacy of the nursery structure must be provided ***within thirty (30) days of the date of this consent or prior to the issue of an Occupation Certificate whichever comes first.***

6. **Any unapproved toilets or Onsite Sewage Management Systems to be removed**
Any unapproved toilets or Onsite Sewage Management Systems must be removed ***within one hundred and eighty (180) days of the date of this consent.***
7. **Application for Occupation Certificate required within sixty (60) days**
An application for an Occupation Certificate must be submitted ***within sixty (60) days of the date of this consent.***

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

8. **Erosion and sediment measures**
Where erosion of soils or runoff of any substance is likely to occur, erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. This may include stockpiled materials such as sand, etc.

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).

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

9. **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 and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

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

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **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

16. **Stormwater drainage work**

Stormwater drainage for the development must be constructed in accordance with the approved plans and specifications prior to issue of an Occupation Certificate.

17. **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.

The following conditions are to be complied with at all times

18. **Vehicular access**

Vehicular access to the nursery structure via the road reserve to the west of the site is not permitted without prior agreement with Council's Infrastructure Services.

19. **Leasing / Licensing**

The use of the nursery structure must comply with the temporary licence held by Mullumbimby SEED Inc. and granted in accordance with Council resolution 19-287 at all times.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

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 98E	Condition relating to shoring and adequacy of adjoining property

SCHEDULE 3 REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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 2000 considerations.
The proposed development will not have a 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 the 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 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.

SCHEDULE 4 NOTES

Principal Certifying Authority:

Work must not commence until the applicant has:-

- appointed a Principal Certifying Authority (if the Council is not the PCA); and
- 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'.
- 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.

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).