

SCHEDULE 1. DEFERRED COMMENCEMENT CONDITION PURSUANT TO SECTION 4.16(3)

The following condition concerns matters as to which the Council must be satisfied before the consent can be issued:

1. Deferred Commencement Consent

This consent does not operate until Council is satisfied as to the following matter:

A Building Information Certificate is required to be issued by Council for the studio. 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

1. A separate approval from Council for acknowledgement of Section B (Water Services) and Section C (Sanitary Plumbing and Drainage Services) of the Plumbing Code of Australia and
2. A building workmanship report from the licence holder of a Qualified Supervisor Certificate under Fair Trading NSW.
3. The following Performance Provisions of the Building Code of Australia.
4. Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate;

Performance Requirement of the Building Code of Australia

- P2.1.1 Structural stability and resistance to actions (including glazing)
- P2.2.1 Rainwater management
- P2.2.2 Weatherproofing
- P2.2.3 Rising damp
- P2.4.1 Wet areas
- P2.4.2 Room heights
- P2.4.4 Lighting
- P2.4.5 Ventilation

SCHEDULE 2. 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.

Plan Title	Version No.	Drawn by	Dated
Site Plan	DA1a	D.C	July 2022

Ground floor plan	DA3a	D.C	July 2022
Elevations and sections	DA4a	D.C	July 2022
Roof plan	DA5a	D.C	July 2022

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. **Support for neighbouring buildings**

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made or builder must:

- a. Inform the neighbouring property owner immediately.
- b. Engage a structural engineer to determine any remedial works that may need to be undertaken.
- c. Preserve and protect the adjoining building from damage.
- d. If necessary, underpin and support the building in an approved manner.

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 **Schedule 3** of 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 by Bushfire Certifiers dated 22 December 2022.

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

5. **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.

6. **Stormwater disposal**

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

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

7. **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.

The following conditions are to be complied with at all times

8. **Studio building not to be used as a separate dwelling and use must not interfere with amenity**

- a. The studio building must not contain any lounge room, dining room, rumpus room, kitchen, bedroom or other habitable room and must not be used as a separate dwelling.
- b. The studio must only be used as a non-habitable workspace including activities that cannot be carried out by their nature within the residential house.
- c. The studio is not to be used as short-term rental accommodation, tourist and visitor accommodation or to be "holiday let."
- d. The use of the studio building must not be conducted in such a manner as would interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise.

9. **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.

10. **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 3. 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 4. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Note: From July 1, 2018, Councils 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 modifications were minor and substantially the same as the original development approval with no detrimental environmental impacts.
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 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.

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

SCHEDULE 5. 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.

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).