



BSC File No: 223180D x 10.2016.759.2/#A2024/21409  
Contact: Justin Telfer

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application No.</b>	10.2016.759.2 PAN-412763
<b>Applicant</b>	Mr D Schofield
<b>Property</b>	32 Rankin Drive BANGALOW LOT: 56 DP: 883263
<b>Development</b>	S4.55 to Increase Size of Pool and Change Carport Roof Pitch
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	29 April 2024

*Under of the EP&A Act, notice is given that the above application to modify 10.2016.759.1 has been approved, subject to the conditions specified in this notice and as described in the Modification Summary*

### Reason for approval

The conditions imposed have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment and the amenity of the neighborhood.

### Right of appeal / review of determination

If you are dissatisfied with this determination:

#### Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received this notice provided that an appeal under section 8.9 of the EP&A Act has not been disposed of by the Court.

#### Rights to appeal

You have a right under section 8.9 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

### Signed on behalf of the Consent Authority

Justin Telfer  
Assistant Planner

## MODIFIED CONDITIONS OF CONSENT:

### A. Modify conditions 1 and 9 of the Notice of Determination to read as follows:

#### 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:
1 of 10 REV: A	Site plan	Michael Spiteri Architectural Drafting	6.10.23
5 of 10 REV: A	Floor Plan	Michael Spiteri Architectural Drafting	6.10.23
6 of 10 REV: A	Elevation 1	Michael Spiteri Architectural Drafting	6.10.23
7 of 10 REV: A	Elevation 2	Michael Spiteri Architectural Drafting	6.10.23
8 of 10 REV: A	Section	Michael Spiteri Architectural Drafting	6.10.23
9 of 10	Window Schedule	Michael Spiteri Architectural Drafting	October 2016
10 of 10 REV: A	Carport Details	Michael Spiteri Architectural Drafting	6.10.23

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.

#### 9) Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No A1745298 dated 29 April 2024.

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

Note that 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 energy efficiency measures may be undertaken without the issue of any amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed colours must be consistent with the provisions of Section D2.2.3 of Council's Development Control Plan 2014. Note that white colours are not permissible.

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

**STATEMENT OF REASONS**

*Council is 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**

S.4.55	The modifications are minor and the development as modified is substantially the same as the originally approved development, with no significantly detrimental environmental impacts.
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**How community views were addressed**

2	The application was publicly exhibited in accordance with the Community Participation Plan. No submissions were received.
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# NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the  
*Environmental Planning and Assessment Act, 1979 Section 81(1)(a)*

## Development Application No. 10.2016.759.1

Michael Spiteri Architectural Drafting Service  
ATT: Michael Spiteri  
5 Ballina Road  
BANGALOW NSW 2479

Email: [michaelspiteri66@bigpond.com](mailto:michaelspiteri66@bigpond.com)

<b>Property description:</b>	LOT: 56 DP: 883263 <b>32 Rankin Drive BANGALOW</b>
<b>Development</b>	<b>Alterations and Additions to Existing Dwelling House, a Carport and Swimming Pool</b>
<b>Determination</b>	<b>Consent granted subject to the attached schedule of conditions</b>
<b>Date determined:</b>	23 December 2016
<b>Consent to operate from:</b>	23 December 2016
<b>Consent to lapse on:</b>	23 December 2021
<b>Concurrent approvals:</b>	Not issued with this consent

### IMPORTANT INFORMATION

**It is the responsibility of the applicant, landowner, builder, and any other contractors or agents involved with the development to read and understand all conditions of consent prior to commencing work.**

***The Environmental Planning and Assessment Act 1979 requires you to:***

1. Obtain a **Construction Certificate** prior to the commencement of any **building works** as required by conditions of this consent. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate. Additional fees are payable for this application.
2. Nominate a **Principal Certifying Authority (PCA)** which may be either Council or an accredited certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement.
3. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement. Additional fees are payable for this application.

## S c h e d u l e   o f   C o n d i t i o n s

### 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:
1 of 10 REV: A	Site plan	Michael Spiteri Architectural Drafting	6.10.23
5 of 10 REV: A	Floor Plan	Michael Spiteri Architectural Drafting	6.10.23
6 of 10 REV: A	Elevation 1	Michael Spiteri Architectural Drafting	6.10.23
7 of 10 REV: A	Elevation 2	Michael Spiteri Architectural Drafting	6.10.23
8 of 10 REV: A	Section	Michael Spiteri Architectural Drafting	6.10.23
9 of 10	Window Schedule	Michael Spiteri Architectural Drafting	October 2016
10 of 10 REV: A	Carport Details	Michael Spiteri Architectural Drafting	6.10.23

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) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
  - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia ,
  - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:
  - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
  - (b) to the erection of a temporary building.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

### 3) Erection of signs

- (1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

**Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).**

### 4) Notification of Home Building Act 1989 requirements

- (1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989 .
- (2) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

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

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**5) 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

**6) Compliance with Building Over Pipelines Policy 4.20**

Swimming pools are classed as buildings and are required to comply with this policy. The application for a Construction Certificate is to include Engineers plans and specifications that are survey accurate and demonstrate compliance with this policy.

**7) 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.

**8) Earthworks**

No earthworks are to be undertaken that are at a depth of greater than two (2) metres. The application for a Construction Certificate is to include Engineers plans and specifications that are survey accurate and demonstrate compliance with this condition of consent.

**9) Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No A1745298 dated 29 April 2024.

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

Note that 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 energy efficiency measures may be undertaken without the issue of any amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed colours must be consistent with the provisions of Section D2.2.3 of Council's Development Control Plan 2014. Note that white colours are not permissible.

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

**10) Long Service Levy to be paid**

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au) or at Council's Administration Office, Station Street, Mullumbimby. Where paying to Council, cheques are to be made payable to 'Byron Shire Council'.

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

## 11) Site Waste Minimisation and Management Plan

Chapter 1: Part F of Byron Shire Development Control Plan 2010 (DCP 2010) 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/publications/swmmp\\_-\\_pro-forma-.doc](http://www.byron.nsw.gov.au/files/publications/swmmp_-_pro-forma-.doc))

## 12) Internal Driveway details required

The application for a Construction Certificate is to include plans and specification that indicate vehicular access from the site boundary to the proposed car space(s). Vehicular access must be in accordance with AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking. Plans are to include the following items:

- a) pavement description;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal section from the road centreline to the car space(s).

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

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

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## 13) 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. The changes made are from Plumbers and Drainage Regulation 2012 NSW Government.

- a) The licensee is to provide 24 hours notice and attend the site for the following **INSPECTIONS**, prior to covering of work. Inspections will be carried out a mutually convenient time:
  - i) Pre-start and Sediment Control;
  - ii) Internal Drainage;
  - iii) External Drainage;
  - iv) Water Rough In;
  - v) Fire Services;
  - vi) Final - all work completed. - \* Note below.
- b) A licensee is required to provide to Council and owner of the property after completion of the work and within 48 hours, a Compliance Certificate and Sewer Services Diagram/ Works as Executed drawings.

**Note:** Council will send each plumber proformas of these documents when the Notice of Work permit has been issued by Council to allow the plumber to commence work.



#### 14) 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 copy may be downloaded from Council's web site at [http://www.byron.nsw.gov.au/pdfs/stormwater/sediment\\_erosion.pdf](http://www.byron.nsw.gov.au/pdfs/stormwater/sediment_erosion.pdf). Particular attention is to be given to the provision of the following sediment and erosion control measures:

- a) Temporary driveway from the edge of road to the building site;
- b) Temporary downpipes immediately installed after the roof has been erected;
- c) Silt fence or sediment barrier.

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

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

**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).**

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

##### 15) Stormwater drainage work

Stormwater shall be collected and disposed of in a controlled manner. The point of disposal shall be to the interallotment drainage system. Drainage lines within the road reserve must be sewer class or other approved equivalent. All drainage works are to be installed by a suitably qualified person and in accordance with the requirements of AS/NZS 3500.3:2003 - Plumbing and drainage, Part 3: Stormwater drainage.

##### 16) 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.**

##### 17) 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.**

##### 18) 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.

**19) 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.

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

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**20) 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 Council's road/footpath reserve.

**21) 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) 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.

**The following conditions are to be complied with at all times**

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**22) Swimming pool discharge**

Swimming pool's discharge for waste water is to be in accordance with AS/NZS 3500.2.2, Section 10.9 & Figure 10.2.

**23) Swimming pool pump location**

The filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining residents. If necessary an acoustic enclosure must be provided around the pump to achieve the required noise attenuation.

**24) Swimming pool health requirements**

The swimming pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council's Senior Environmental Health Officer and the Health Department of New South Wales. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times.

**25) Swimming pool fencing**

Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.

**Notes**

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**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](http://www.byron.nsw.gov.au)

**Occupation Certificate required:**

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

**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 the Council at least two days notice of their 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.

**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 (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

**Reasons**

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- To ensure the development is completed in accordance with conditions of consent and approved plans.
- To preserve the environment and existing or likely future amenity of the neighbourhood.
- To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of runoff from any buildings and paved areas that may be constructed on the land.
- To ensure compliance with engineering standards.

**Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

**Are you dissatisfied with conditions of consent**

If you are unhappy with conditions of consent discuss your concerns with the officer who dealt with your application. You may submit an application to Council to modify the consent under Section 96 of the Environmental Planning & Assessment Act, 1979.

You will need to provide reasons why the conditions should be changed or deleted. You may lodge a Section 96 application at any time after the notice of determination. If you are not happy with Council's decision on your request for modification, then you may appeal to the Land & Environment Court within six (6) months of the notification by Council.

**Right of Review**

You may request Council to review its decision under Section 82A of the Environmental Planning and Assessment Act, 1979. Such a request must be made within six (6) months of the date of the determination, or if there is an appeal to the Land and Environment Court, up to the time when the court hands down its decision. In reviewing its decision Council is able to consider alterations to the above plans, provided that the Development Application remains substantially the same as the one for which the consent was originally sought, and the changes are publicly notified.

**NOTE:** This clause does not relate to Integrated Development Applications, applications determined by the Joint Regional Planning Panel or applications previously considered under Section 82A of the Environmental Planning and Assessment Act 1979.

**Right of Appeal**

If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

**Signed on behalf of the Consent Authority**

Yours sincerely



Justin Telfer  
Assistant Planner

*Dated: 30 April 2024*

**General Advisory Notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.