



**BYRON  
SHIRE  
COUNCIL**

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BSC File No: 218210D x 10.2013.266.3/#A2024/43276  
Contact: Justin Telfer

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

**Application No.** 10.2013.266.3  
PAN-448986

**Applicant** Mr J F Bathie

**Property** 14B Coolamon Avenue MULLUMBIMBY  
LOT: 3 DP: 874433

**Development** S4.55 Modification to delete Outdoor Living Area

**Determination** Approved  
Consent Authority - Council

**Date of determination** 22 August 2024

*Under of the EP&A Act, notice is given that the above application to modify 10.2013.266.2 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 condition 1 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:

| <b>Plan No.</b> | <b>Description:</b> | <b>Prepared by:</b> | <b>Dated:</b> |
|-----------------|---------------------|---------------------|---------------|
| DA1 Rev 4.55    | Site plan           | PPDC                | July 2024     |
| DA3 Rev 4.55    | Ground floor plan   | PPDC                | July 2024     |
| DA4 Rev 4.55    | Elevations          | PPDC                | July 2024     |
| DA5 Rev 4.55    | Sections            | PPDC                | July 2024     |

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.

**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. |
|--------|--|

**How community views were addressed**

|   |  |
|---|--|
| 1 | The application did not require public exhibition in accordance with the Community Participation Plan. |
|---|--|

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

issued under the

***Environmental Planning and Assessment Act, 1979 Section 81(1)(a)*****Development Application No. 10.2013.266.1**

Mr D R Cope  
49 Kingsley Lane  
BYRON BAY NSW 2481

|                                 |   |
|---------------------------------|---|
| <b>Property description:</b>    | LOT: 3 DP: 874433<br><b>14B Coolamon Avenue MULLUMBIMBY</b>           |
| <b>Development</b>              | <b>Alterations and additions to existing single storey dwelling</b>   |
| <b>Determination</b>            | <b>Consent granted subject to the attached schedule of conditions</b> |
| <b>Date determined:</b>         | 4 September 2013  |
| <b>Consent to operate from:</b> | 4 September 2013  |
| <b>Consent to lapse on:</b>     | 4 September 2018  |
| <b>Concurrent approvals:</b>    | On-site Sewage Management System (70.2013.266.1)                      |

**S c h e d u l e o f C o n d i t i o n s****CONDITIONS OF CONSENT:****Parameters of this Consent**

- 1) Development is to be in accordance with approved plans  
The development is to be in accordance with plans listed below:

| <b>Plan No.</b> | <b>Description:</b> | <b>Prepared by:</b> | <b>Dated:</b> |
|-----------------|---------------------|---------------------|---------------|
| DA1 Rev 4.55    | Site plan           | PPDC                | July 2024     |
| DA3 Rev 4.55    | Ground floor plan   | PPDC                | July 2024     |
| DA4 Rev 4.55    | Elevations          | PPDC                | July 2024     |
| DA5 Rev 4.55    | Sections            | PPDC                | July 2024     |

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) Concurrent Approvals**

The following approvals are provided under Section 78A of Environmental Planning and Assessment Act:

**Integrated Approvals under Section 68 of the Local Government Act 1993**

- C5 Installing, constructing or altering a waste treatment device or a human waste storage facility or a drain connected to any such device or facility.

**3) 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.

**4) 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 116G 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).**

**5) 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.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

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


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**6) Terms of approval for on-site sewage management required**

Refer to Local Government Act Section 68 Application No. **70.2013.266.1** or Local Government Act Section 68 approvals issued subsequent to this consent.

**7) Flood Planning Level for existing buildings**

The flood planning level for this development is R.L. 6.35m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate the use of flood compatible materials, fixtures and power outlets where used in the building below the flood planning level. The flood compatible materials, fixtures and power outlets must be those components listed as "suitable" in *Table 10 - Flood Proofing Code* of Part K – Flood Liable Lands of Development Control Plan 2010.

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

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**The following conditions are to be complied with prior to commencement of building works**

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**9) 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).

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**The following conditions are to be complied with during construction**

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**10) 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.**

**11) 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.**

**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) Electrical and Mechanical Equipment**

For dwellings constructed on flood liable land, the electrical and mechanical materials, equipment and installation must conform to the requirement of Part K of Development Control Plan 2010.

**15) Inspection for on-site sewage management**

All plumbing and drainage works is to be installed by a suitably qualified person. The plumber must adhere to the requirements of the NSW Code of Practice and AS/NZ 3500. The plumber is to arrange for the following inspections to be undertaken:

- a) Internal drainage prior to covering of the works.
- b) External drainage prior to the covering of works.
- c) Irrigation installation prior to the covering of works.
- d) Final

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

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**16) 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, is 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.

**17) 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.

**18) 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.

**19) 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>'.

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**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:-

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

**Reasons**

- 1 To comply with the provisions of Byron L.E.P. 1988.
- 2 To ensure the development is completed in accordance with conditions of consent and approved plans.
- 3 To protect the environment.
- 4 To preserve the amenity of the area.
- 5 To ensure compliance with Section 68 of the Local Government Act 1993.

**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 Council 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: 22 August 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.