



BSC File No: 267682D x 10.2023.14.2/#A2024/10122  
Contact: Alissa Magnifico

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application No.</b>	10.2023.14.2 PAN-390643
<b>Applicant</b>	Town Planning Studio Pty Ltd
<b>Property</b>	14 Casons Road NEW BRIGHTON LOT: 1 DP: 1207731, LOT: 361 DP: 755687
<b>Development</b>	Modification to delete Condition 14 and Amendment to Plans of the Consent for the Approved Demolition of Existing Dwelling, Construction of New Dwelling House and Alterations and Additions to Existing Shed to create Expanded House Habitable Outbuilding
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	29 February 2024

*Under of the EP&A Act, notice is given that the above application to modify original 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

Alissa Magnifico  
Senior Planner

## Schedule 1 – Modification Summary

### MODIFIED CONDITIONS OF CONSENT:

#### A. Delete condition 1 of the Notice of Determination and replace with:

##### 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 No.	Plan Title	Drawn by	Dated
SD02 REV I	Site Plan	Rachel Norman Architect	07/07/2023
SD03 REV E	Demolition Plan	Rachel Norman Architect	07/07/2023
SD05 REV I	Exp Dwelling	Rachel Norman Architect	07/07/2023
SD06 REV G	Exp Dwelling Roof Plan	Rachel Norman Architect	07/07/2023
SD07 REV G	Exp Dwelling Elevations	Rachel Norman Architect	07/07/2023
SD08 REV G	Exp Dwelling Elevations	Rachel Norman Architect	07/07/2023
110 Rev H	Ground Floor Plan	Imagine by Design Pty Ltd	13.11.23
201 REV I	First Floor Plan	Imagine by Design Pty Ltd	13.11.23
300 REV F	Elevations – South & West	Imagine by Design Pty Ltd	13.11.23
301 REV F	Elevations – North & East	Imagine by Design Pty Ltd	13.11.23
400 REV E	Sections	Imagine by Design Pty Ltd	16.09.22
SD500 Issue G	Overall Elevations and Material Schedule	Rachel Norman Architect	13.11.23
SD501 Rev E	Material Schedule	Rachel Norman Architect	16.05.23

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.

#### B. Modify conditions 11, 14, 15 and 18 of the Notice of Determination to read as follows:

##### 11. **Privacy controls. Amendments to the plan required**

The:

- (a) south west facing first floor porch deck, first floor north east facing deck of the dwelling;  
and
- (b) north east facing expanded dwelling deck

have the potential to reduce the level of privacy enjoyed by the occupants of adjoining properties.

The plans submitted for approval of the Construction Certificate must be amended to show:

1. The first floor south west facing porch deck and first floor north east facing deck of the dwelling, and the north east facing expanded dwelling deck require 1.8m high privacy screening.

The screens could be constructed from lattice, vertical slats or other similar non-transparent screenings. Where slats are used, they are to be angled to ensure the line of sight is directed away from the adjoining dwelling. The screens must be a minimum of 1.8m high above the floor level of the decks.

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

**14. 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. The driveway upgrade must be generally in accordance with Standard Drawing R-14 noting that a sealed pavement is currently not required.

**15. 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) pavement design, comprising an all weather surface
- b) site conditions affecting the access; and
- c) existing and design levels.

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".

**18. Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No.1344190S\_04, dated 26 February 2024.

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.

## 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.*

<b>Statement of Reasons</b>
-----------------------------

The modifications are minor and the development as modified is substantially the same as the originally approved development, with no significantly detrimental environmental impacts.
--

<b>How community views were addressed</b>
---

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



## Schedule 2 - Conditions of Consent

BSC File No: 267682D x 10.2023.14.1/#A2023/35464 Contact: Alissa Magnifico

### NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application No.</b>	10.2023.14.1 PAN-299334
<b>Applicant</b>	Ms R Norman
<b>Property</b>	14 Casons Road NEW BRIGHTON LOT: 1 DP: 1207731, LOT: 361 DP: 755687
<b>Development</b>	Demolition of Existing Dwelling, Construction of New Dwelling House and Alterations and Additions to existing Shed to create Expanded House Habitable Outbuilding
<b>Determination</b>	Approved Consent Authority - Byron Shire Council
<b>Date of determination</b>	19 July 2023
<b>Date from which the consent operates</b>	20 July 2023
<b>Date on which the consent lapses</b>	20 July 2028

*Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.*

#### Reason for conditions

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 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

#### Rights to appeal

You have a right under section 8.7 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

Alissa Magnifico  
Senior Planner

## 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.

Plan No.	Plan Title	Drawn by	Dated
SD02 REV I	Site Plan	Rachel Norman Architect	07/07/2023
SD03 REV E	Demolition Plan	Rachel Norman Architect	07/07/2023
SD05 REV I	Exp Dwelling	Rachel Norman Architect	07/07/2023
SD06 REV G	Exp Dwelling Roof Plan	Rachel Norman Architect	07/07/2023
SD07 REV G	Exp Dwelling Elevations	Rachel Norman Architect	07/07/2023
SD08 REV G	Exp Dwelling Elevations	Rachel Norman Architect	07/07/2023
110 Rev H	Ground Floor Plan	Imagine by Design Pty Ltd	13.11.23
201 REV I	First Floor Plan	Imagine by Design Pty Ltd	13.11.23
300 REV F	Elevations – South & West	Imagine by Design Pty Ltd	13.11.23
301 REV F	Elevations – North & East	Imagine by Design Pty Ltd	13.11.23
400 REV E	Sections	Imagine by Design Pty Ltd	16.09.22
SD500 Issue G	Overall Elevations and Material Schedule	Rachel Norman Architect	13.11.23
SD501 Rev E	Material Schedule	Rachel Norman Architect	16.05.23

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. Payment of security deposits

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Security deposit	\$3,000
Inspection fee	In accordance with Council's fees and charges <sup>3</sup>

The

payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

**Note:** The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

### 3. **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.

### 4. **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 2** of this consent.

### 5. **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 NSW Rural Fire Service conditions provided in **Schedule 3** of this consent.

### 6. **Tree to be retained**

The Forest Red Gum Tree located on the north east boundary must be retained and protected.

### 7. **Limited Tree Removal**

Removal of existing trees from the site is limited to those expressly permitted by this development consent as marked on the stamped plans, and any established woody environmental weeds (Camphor Laurel or Coral Trees) located within the site may be removed using appropriate/sensitive methods.

The removal of these trees is to be carried out by an arborist. These works could be completed by the arborist at the same time as pruning works required for compliance with Planning for Bushfire Protection 2019. All other trees and native plants within the site are to be retained and protected.

### 8. **Pruning of existing trees**

Tree pruning in order to comply with Planning for Bushfire Protection 2019 is to be completed to the minimum extent necessary. Any pruning is to be completed by an experienced and qualified arborist (under advice from a bushfire consultant) to ensure the health and longevity of the native trees on the site are not compromised.

Pruning of tree must be completed in accordance with Australian Standard "Pruning of Amenity Trees" AS4373-2007.

### 9. **Construction Certificate**

A construction certificate is required for the works.

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

**10. 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.

**11. Privacy controls. Amendments to the plan required**

The:

- (a) south west facing first floor porch deck, first floor north east facing deck of the dwelling; and
- (b) north east facing expanded dwelling deck

have the potential to reduce the level of privacy enjoyed by the occupants of adjoining properties.

The plans submitted for approval of the Construction Certificate must be amended to show:

1. The first floor south west facing porch deck and first floor north east facing deck of the dwelling, and the north east facing expanded dwelling deck require 1.8m high privacy screening.

The screens could be constructed from lattice, vertical slats or other similar non-transparent screenings. Where slats are used, they are to be angled to ensure the line of sight is directed away from the adjoining dwelling. The screens must be a minimum of 1.8m high above the floor level of the decks.

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

**12. Land to be consolidated**

LOT: 1 DP: 1207731 and LOT: 361 DP: 755687 are to be consolidated into one allotment and registered with the NSW Department of Lands.



**13. Stormwater Drainage – Dispersion Trench**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed by a gravity system to a dispersion trench or trenches complying with the requirements of Council's *Comprehensive Guidelines for Stormwater Management*.

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

**14. 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:

**b) 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. The driveway upgrade must be generally in accordance with Standard Drawing R-14 noting that a sealed pavement is currently not required.

**15. 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) pavement design, comprising an all weather surface
- b) site conditions affecting the access; and
- c) existing and design levels.

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".

**16. Flood Planning Level**

The flood planning level for this development is 3.59m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at, or up to 0.3m above, the flood planning level unless a greater floor level has been shown on the plans approved by the development consent.

The finished floor level of the garage is to be at or above 2.21m AHD.

The plans and specifications to accompany the construction certificate application are to also indicate the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.

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

**17. 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.

**18. Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No.1344190S\_04, dated 26 February 2024.

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.

**19. 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](http://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.

**20. Waste Management Plan**

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

a. Council's Waste Management Development Control Plan

**OR**

b. details the following:

- the contact details of the person(s) removing the waste
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
- the address of the disposal location(s) where the waste is to be taken

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

**21. Tree Removal**

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

**22. Retained trees**

All trees to be retained in accordance with this development consent must be illustrated on any and all relevant Construction Plans, along with their Tree Protection Zones formulated in accordance with *AS 4970-2009 – Protection of Trees on Development Sites*.

**23. 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.

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

**24. 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. 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.**

**25. Site Location**

The location of the building on the site to be established by a suitably qualified Surveyor and must comply with this approval including any required setbacks to boundaries.

**26. Trees to be retained and protected**

Trees to be retained are to be protected by a Tree Protection Zone (TPZ) exclusion fence. The fence is to be constructed in accordance with Sections 3.2 and 4.3 of AS4970-2009 Protection of trees on development sites (Standards Australia 2009). The fence must:

- a. Be located outside the dripline of the tree so as to minimise disturbance to tree roots;
- b. have a minimum height of 1.8 metres;
- c. be constructed of wire mesh panels, plywood, steel star pickets or similar, with a maximum distance of 2metres between star pickets;
- d. have a minimum of 3 strands of steel wire or similar;
- e. have high visibility barrier mesh (eg orange), shade cloth or similar, attached to the outside of the fence and continuing around its perimeter;
- f. include at least one Tree Protection Zone (TPZ) sign in accordance with Section 4.4 of AS4970-2009.

Activities that are excluded within the TPZ (as per section 4.2 of AS4970-2009) include excavation, construction activity, grade changes, surface treatment and storage of material. If these activities are required within the TPZ they may only occur under the supervision of the project arborist (minimum AQF level 5 qualified arborist).

The Tree Protection Zone (TPZ) exclusion fence is to be maintained for the duration of the site clearing, preparation, construction and landscaping works.

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

**27. 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.

**28. 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.

**29. 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.

**30. 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.

**31. 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.

**32. 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.**

**33. Removal of asbestos**

All asbestos wastes associated with removal of the existing dwelling 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.

**34. Protection of Native Trees**

All trees nominated to be retained by notation or condition as a requirement of the development consent shall be maintained and protected during demolition, excavation and construction on the site in accordance with AS 4970-2009 – Protection of Trees on Development Sites.

**35. Maintenance of fencing to protect trees**

Fencing required to protect trees to be retained is to be maintained for the duration of the site clearing, preparation and construction works. During site works and construction all measures are to be taken to prevent damage to trees and other vegetation (including root systems) to be retained.

No building materials or other items are to be placed or stored within the fenced off areas. A qualified arborist experienced in tree management must be present on a full or part-time basis to advise on the maintenance of the trees for their protection for the duration of the project.

**36. 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.

**37. 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.

**38. All excavated soils to be disposed of off-site**

All excavated soils to be disposed of off-site and in accordance with NSW EPA *Waste Classification Guidelines* (2014) and approved environmental management plans.

**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. 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 condition:

- “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.

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

**42. 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.

**43. Plumbing Works**

All works in relation to any associated Section 68 Water and Sewerage approval must be fully complied with and have a Final Plumbing Certificate issued prior to the issue of an Interim or Final Occupation Certificate.”

**44. 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.

**45. Privacy Measures**

All privacy measures as required by this consent must be installed and completed prior to issue of any occupation certificate.

**46. Site Location Survey**

A final survey of the structures showing setbacks to boundaries to be submitted to the Private Certifier with the Occupation Certificate demonstrating compliance with the approved plans.

**47. Floor Levels – Certification for Flooding**

Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principal Certifying Authority confirming the height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the floor levels are at or above the relevant flood planning levels. A copy of the floor level certification from the registered surveyor must also be submitted to Council for the attention of Council's Drainage and Flood Engineer.

**48. Stormwater drainage work**

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate.

**49. 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**

**50. Approved use**

**Dwelling house** – Use of the development is approved for a dwelling house. Any activity other than that defined as dwelling house must not be carried out unless development consent is sought.

**Expanded House Habitable Outbuilding-** The expanded house habitable outbuilding must remain ancillary to the dwelling house. The expanded house habitable outbuilding is not to contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food, and must not be used as a separate dwelling.

Note. *Dwelling house* means “a building containing only one dwelling”, and dwelling means “a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile”. The dwelling house and expanded house habitable outbuilding is not approved as short term rental accommodation, tourist and visitor accommodation or to be “holiday let”.

**51. 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.

**52. Limited Tree Removal**

Removal of existing trees from the site is limited to those expressly permitted by this development consent as marked on stamped plans; as well as any Coral trees or Camphor Laurel trees located on the site. These are weed trees and would enhance bushfire safety if they are removed.

The removal of these trees is to be carried out by an arborist. These works could be completed by the arborist at the same time as pruning works required for planning for bushfire 2019. All other trees and native plants within the site are to be retained and protected.

**53. Pruning of existing trees**

Tree pruning in order to comply with Planning for Bushfire Protection 2019 is to be completed to the minimum extent necessary. Any pruning is to be completed by an experienced and qualified arborist (under advice from a Bushfire Consultant) to ensure the health and longevity of the native vegetation on the site is not compromised.

Pruning of tree must be completed in accordance with Australian Standard "Pruning of Amenity Trees" AS4373-2007.

**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. NSW RURAL FIRE SERVICE CONDITIONS



## NSW RURAL FIRE SERVICE

Byron Shire Council  
PO Box 219  
MULLUMBIMBY NSW 2482

Your reference: (CNR-52235) 10.2023.14.1  
Our reference: DA20230222000754-Original-1

**ATTENTION:** Rebecca Mercer

Date: Tuesday 7 March 2023

Dear Sir/Madam,

**Development Application**  
**s4.14 – Infill – Single Dwelling – New Dwelling**  
**14 CASONS ROAD NEW BRIGHTON 2483, 361//DP755687, 1//DP1207731**

I refer to your correspondence dated 22/02/2023 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

#### Asset Protection Zones

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

1. From the commencement of building works and in perpetuity, the entire property shall be managed as an inner protection area in accordance with the following requirements of Appendix 4 of Planning for Bush Fire Protection 2019:
  - a) tree canopy cover should be less than 15% at maturity;
  - b) trees at maturity should not touch or overhang the building;
  - c) lower limbs should be removed up to a height of 2m above the ground;
  - d) tree canopies should be separated by 2 to 5m; and
  - e) preference should be given to smooth-barked and evergreen trees.
  - f) create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings should be provided;
  - g) shrubs should not be located under trees;
  - h) shrubs should not form more than 10% ground cover; and
  - i) clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
  - j) grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and
  - k) leaves and vegetation debris should be removed.

1

#### Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### Street address

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

### Construction Standards

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

2. The proposed development shall comply with Section 3 (excluding section 3.5) and Section 9 (BAL FZ) of Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). The proposed development shall also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

3. New fences and/or gates shall comply with Section 7.6 of Planning for Bush Fire Protection 2019. New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6 metres of a dwelling or in areas of BAL-29 or greater, they shall be made of non-combustible material only.

### Water and Utility Services

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

4. The provision of water, electricity and gas shall comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:

- a) reticulated water is to be provided to the development where available,
- b) all above-ground water service pipes external to the building are metal, including and up to any taps,
- c) where practicable, electrical transmission lines are underground,
- d) where overhead electrical transmission lines are proposed they shall comply with the requirements/guidelines of the local electricity authority.
- e) reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used,
- f) all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side,
- g) connections to and from gas cylinders are metal,
- h) polymer-sheathed flexible gas supply lines are not used, and
- i) above-ground gas service pipes are metal, including and up to any outlets.

### Landscaping Assessment

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

5. Landscaping within the required asset protection zone shall comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:

- a) a minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- b) planting is limited in the immediate vicinity of the building;
- c) planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- d) landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- e) avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- f) use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- g) avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- h) avoid climbing species to walls and pergolas;
- i) locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;



- j) locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- k) low flammability vegetation species are used.

**General Advice – Consent Authority to Note**

The recommendations are based on the plans prepared by Rachel Norman Architect, titled 'Proposed Dwelling & Expanded Dwelling', Project No: 2219, dated 20 January, 2023.

A recent NSW RFS assessment of a proposed development at No.12 Casons Road included a recommendation for a 15 metre APZ to be established to the rear of that development. Where that APZ is established and maintained, the proposed main dwelling within No.14 Casons Road may be constructed to BAL 29 requirements in lieu of the BAL FZ recommended above.

For any queries regarding this correspondence, please contact Neil Pengilly on 1300 NSW RFS.

Yours sincerely,

Alan Bawden  
Supervisor Development Assessment & Plan  
Built & Natural Environment



## SCHEDULE 4. 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 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 notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.

## 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:-

- 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.

**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).

**General Advisory Notes****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 1800 810 443.

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

1. For building works, obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate.

For subdivision works, obtain a **Subdivision Works Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Subdivision Works Certificate.

An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the above Certificates.

All applications must be lodged via the [NSW Planning Portal](#).

2. Nominate a **Principal Certifier** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully commence works** without complying with this requirement. Appointment must be made through the [NSW Planning Portal](#)
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.

All applications must be lodged via the [NSW Planning Portal](#).

**You may also need to:**

5. Lodge an Application for Subdivision to obtain a Subdivision Certificate if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain Strata Title Subdivision under the relevant Strata Titles Act if strata title of the development is proposed.
6. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

## **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.