



NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application number	DA-53-2023-2 PAN-409371
Applicant	Ambrose Hallman [REDACTED]
Description of development	Dwelling with attached garage and rainwater tank (210,000L) (Modification)
Property	QUARTZ GULLY ROAD URALLA 2358 499/-/DP755846
Determination	Approved Consent Authority - Council staff under delegated authority
Date of determination	12/04/24
Date from which the consent operates	15/09/23
Date on which the consent lapses	15/09/28

Under section 4.55(2) of the EP&A Act, notice is given that the above application to modify DA-53-2023-2 has been approved, subject to the conditions specified in this notice and as described in the Modification Summary

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

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

[REDACTED]
Simon Vivers
Interim Manager Development & Planning
Person on behalf of the consent authority

Modification Summary

Modified Conditions

Application Number (PAN)	Determination Date	Modification Description
PAN-409371	15/09/23	Amendments to condition 5,13

Terms and Reasons for Conditions

Under section 118(3)(a) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

1	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia. 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences. 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia. 4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made. 5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made. 6. This section does not apply— <ol style="list-style-type: none"> a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p>Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and c. stating that unauthorised entry to the work site is prohibited. 3. The sign must be— <ol style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. 4. This section does not apply in relation to— <ol style="list-style-type: none"> a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p>Fulfilment of BASIX commitments</p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is</p>

fulfilled—

1. BASIX development,
2. BASIX optional development, if the development application was accompanied by a BASIX certificate.

Condition reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.

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Notification of Home Building Act 1989 requirements

1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following—
 - a. for work that requires a principal contractor to be appointed—
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,
 - b. for work to be carried out 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 the Home Building Act 1989—the number of the owner-builder permit.
3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.

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Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
DA-53-2023M		A002 Site Plan	Epic Architecture	29.01.2024
		A100 Floor Plan		
		A200 Elevations		
		A201 Elevations		

Approved documents			
Document title	Version number	Prepared by	Date of document
BAL Certificate	1	Stephen Cotter	19/1/2023
BAL 12.5			
Koala Habitat Assessment	1	Stephen Cotter	9/4/2023

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

(PAN-409371 20240412 Condition was amended)

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

Building Work

Before issue of a construction certificate

6	<p>Long Service Levy</p> <p>Before the issue of a Construction Certificate, the long service levy must be paid to the Long Service Corporation under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier.</p> <p>Condition reason: To ensure the long service levy is paid.</p>								
7	<p>BAL 12.5 - Ember Risk</p> <p>Before the issue of the Construction Certificate, plans accompanying any application are to meet the performance criteria for construction standards given in the NSW RFS Planning for Bushfire Protection 2018, as follows:</p> <ul style="list-style-type: none"> • Construction and ember attack measures at bush fire attack levels (BAL- 12.5) provided by AS 3959-2018, & • Residential frame construction using the NASH Standard. <p>To obtain a copy of the Planning for Bushfire Protection 2018, go to: https://www.rfs.nsw.gov.au/_data/assets/pdf_file/0007/97576/DPP1007-Planning-for-Bushfire-Protection-2018-280818-D22.pdf</p> <p>Condition reason: To ensure the proposed new dwelling is designed in accordance with the construction requirements for BAL 12.5.</p>								
8	<p>Construction Certificate</p> <p>In accordance with the provisions of Section 6.6 and 6.7 of the <i>Environmental Planning and Assessment Act 1979</i>, construction works approved by this consent must not commence until:</p> <ol style="list-style-type: none"> a) a Construction Certificate has been issued; b) the NSW Planning Portal has been advised of; <ol style="list-style-type: none"> (i) the intention to commence work; and (ii) the specific Principal Certifying Authority (building inspector) that has been appointed to the project. <p>Documentation required under this condition must show that the proposal complies with all relevant development consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.</p> <p>Condition reason:</p>								
9	<p>Section 68 Approvals</p> <p>Before issue of a construction certificate, an approval is required under Section 68 of the Local Government Act for:-</p> <ul style="list-style-type: none"> • installation, alteration, or operation of an on-site waste water management system (OSSMS), and • installation of a domestic oil or solid fuel heating appliance (fireplace) (if applicable). <p>Condition reason: To ensure the appropriate section 68 approvals are in place prior to issue of a construction certificate for the development.</p>								
10	<p>Section 7.12 Contributions</p> <p>A contribution is to be paid to Council towards the provision or improvement of public facilities (as per Uralla Shire Council's section 7.12 Contributions Plan 2021).</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;">Proposed Development *</th> <th style="text-align: left;">Cost of Levy Percentage</th> <th style="text-align: left;">Total Contribution</th> <th style="text-align: left;">Note</th> </tr> </thead> <tbody> <tr> <td>\$800,000.00</td> <td>1%</td> <td>\$8,000.00</td> <td>Contribution Rate remains current until first date of next quarter</td> </tr> </tbody> </table> <p><small>*Proposed cost of carrying out the development less any credits which may apply.</small></p> <p>Contributions are indexed annually at the end of each financial year.</p> <p>Condition reason: To assist the Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the LGA.</p>	Proposed Development *	Cost of Levy Percentage	Total Contribution	Note	\$800,000.00	1%	\$8,000.00	Contribution Rate remains current until first date of next quarter
Proposed Development *	Cost of Levy Percentage	Total Contribution	Note						
\$800,000.00	1%	\$8,000.00	Contribution Rate remains current until first date of next quarter						
11	<p>Work on Council Land (Section 138)</p> <p>For all work required on Council land, including the construction of a new access, the applicant is to submit an Application to</p>								

Conduct Work on Land to Which Council is the Regulatory Authority, which will incorporate seeking any necessary approvals for work in road reserves under the Roads Act 1993.

A s138 application must be approved prior to the issue of a Construction Certificate for the development, to ensure pedestrian and vehicular safety during construction and for the life of the development.

Condition reason: To ensure a suitable access is provided for the development.

Before building work commences

No additional conditions have been applied to this stage of development.

During building work

12 Clearing for asset protection zones (APZ)
While site work is being carried out, clearing or modifying vegetation to establish the APZ must be confined within the marked APZ boundary in accordance with the supporting documentation approved under this consent, to the satisfaction of the principal certifier.
Condition reason: To ensure vegetation clearance or modification during construction is confined within the APZ.
13 Discovery of relics and Aboriginal objects
While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered: <ol style="list-style-type: none">1. the work in the area of the discovery must cease immediately;2. the following must be notified<ol style="list-style-type: none">1. for a relic – the Heritage Council; or2. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85. Site work may recommence at a time confirmed in writing by: <ol style="list-style-type: none">1. for a relic – the Heritage Council; or2. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85. (PAN-409371 20240412 Condition was amended)
Condition reason: To ensure the protection of objects of potential significance during works.
14 Procedure for critical stage inspections
While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
Condition reason: To require approval to proceed with building work following each critical stage inspection.
15 Construction of Buildings in Bushfire Prone Areas
Compliance with <i>Australian Standard AS3959: 2018 Construction of buildings in bushfire-prone areas</i> is to be addressed by including appropriate bush fire measures as listed in the NSW Rural Fire Service's <i>Planning for Bush Fire Protection</i> , during construction of the building, to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. Measures include the provision of Asset Protection Zones, access, water supply, electricity and gas services, construction standards, landscaping and emergency management. You can download a copy of <i>Planning for Bush Fire Protection</i> from: https://www.rfs.nsw.gov.au_data/assets/pdf_file/0007/97576/DPP1007-Planning-for-Bushfire-Protection-2018-280818-D22.pdf
Condition reason: To ensure the development meets Australian Standard AS3959: 2018 and provides a measure of protection for the occupants of buildings, as well as providing a measure of protection to the building itself.
16 Cut and Fill
While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements: (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.

(b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants

Condition reason:

17 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 AND 8am to 1pm on Saturday**

(No work on Sundays and public holidays)

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.

Condition reason: To protect the amenity of the surrounding area

18 Stormwater Disposal

Stormwater from paved and impervious surfaces is to be disposed in a manner that does not cause a nuisance for neighbouring properties, by one of the following methods:

- a. By piping to the street gutter/swale drain.
- b. By piping to a rainwater tank and then via the overflow to the street gutter/swale drain.
- c. By piping 3.0 metres clear of any building to a rubble pit.

Stormwater infrastructure is to be installed during building work as soon as the roof is constructed.

Condition reason: To alleviate any potential stormwater problems with respect to the buildings on the allotment or adjoining allotments.

Before issue of an occupation certificate

19	<p>Application for an Occupation Certificate</p> <p>The relevant Occupation Certificate must be obtained before the approved use commences, in accordance with the Environmental Planning & Assessment Act 1979 and to ensure the health and safety of the building's occupants.</p> <p><i>ADVISING: Failure to obtain an Occupation Certificate is an offence under the legislation</i></p> <p>Condition reason: To ensure the building is suitable for occupation (in accordance with its BCA classification).</p>
20	<p>Plumbing and Drainage</p> <p>Any required plumbing and drainage work shall comply with the Plumbing and Drainage Act 2011, Plumbing and Drainage Australian Standard AS3500, Plumbing Regulations 2017 and the Plumbing Code of Australia (NCC 2016).</p> <p>Prior to issue of an occupation certificate, the principal certifier shall be provided with a copy of the Final Plumbing and Drainage Certificate confirming compliance with the <i>Plumbing and Drainage Act 2011</i>.</p> <p>Condition reason: To ensure any plumbing and drainage work complies with the relevant requirements of the Plumbing and Drainage Act 2011</p>
21	<p>Property Number</p> <p>The property number is to be provided in a visible place on or near the entrance for the convenience of visitors, emergency services and postal services prior to the issue of an Occupation Certificate. Numbers shall be 100mm high x 50mm wide (minimum) and of a colour contrasting with the surface to which they are affixed.</p> <p>Condition reason: So that first responders can locate the property in case of an emergency.</p>
22	<p>Rural Water Supply</p> <p>Prior to issue of an Occupation Certificate, the development is to be provided with a minimum 70,000 litre domestic water supply, in accordance with Council's Development Control Plan 2011.</p>

In addition to the minimum quantities of domestic water storage required above, a dedicated reserve for fire fighting purposes of 20,000L is also required to be provided. The dedicated water supply tank must include a 65mm Storz fitting and ball or gate valve, or if the tank is in ground, it shall be fitted with a 200mm x 200mm child proof access hole. These fittings must be compatible with the Rural Fire Service fire fighting connections. Fire fighting appliance (i.e. trucks and tankers) must be able to gain access to within 4 metres of the tank. All associated tank fittings that are above ground and/or external to the tank shall be noncombustible. This includes all above ground water pipes; taps; outlets and fittings.

Condition reason: To ensure there is a reliable rural water supply for the development.

Occupation and ongoing use

23	<p>Maintenance of wastewater and stormwater treatment device</p> <p>During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).</p> <p>Condition reason: To protect sewerage and stormwater systems.</p>
24	<p>Management of asset protection zones (APZ)</p> <p>During ongoing use of the site, the APZ must be managed in accordance with Bushfire Risk Assessment (BAL 12.5), Planning for Bushfire Protection 2019 and the NSW Rural Fire Service's Standards for Asset Protection Zones.</p> <p>Condition reason: To ensure ongoing protection from bush fires.</p>
25	<p>Asset Protection Zones</p> <p>Prior to the issue of an occupation certificate and in perpetuity, landscaping around the dwelling footprint is required to comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.</p> <p>At the commencement of building works, land around the building footprint to a distance of 28m, shall be maintained as in inner protection area (IPA) and 50m, shall be maintained as an outer protection area (OPA) as outlined within 'Planning for Bush Fire Protection' 2019 and the Rural Fire Service's document 'Standards for asset protection zones'.</p> <p>Condition reason: To ensure an APZ is maintained around the dwelling at all times.</p>

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.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means URALLA SHIRE COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that

authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Sydney district or regional planning panel means Northern Regional Planning Panel.