

Draft Conditions of Consent – Without prejudice
As per the Letter from McCartney Young Lawyers dated 2 May 2018, and Plan
from Those architects as referenced in Condition No. 1.

SCHEDULE 1 CONDITIONS OF CONSENT

Parameters

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

Plan No.	Description	Prepared by	Dated:
DA.02 / D	Proposed Works + Subdivision Plan	Those Architects	7/5/18

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) Tree Removal**
No approval is given to the removal of native vegetation or native trees from the site. No clearing or tree removal work to commence until such time as a Construction Certificate is issued.

The following conditions will need to be complied with prior to issue of a Construction Certificate for subdivision works

- 3) Engineering Construction Plans**
Three (3) copies of engineering construction plans and specifications must accompany the Construction Certificate application demonstrating compliance with Council's standards for the required engineering works.

Each set of drawings must be accompanied by a Certification Report which must be signed by a suitably qualified Civil Engineer or Registered Surveyor. The Certification Report will comprise the certificate and check lists set out in Annexure DQS-A of the [Northern Rivers Local Government Development & Design Manuals](#).

The information shown on the drawings must be logically collected on discrete sheets generally in accordance with Annexure DQS-B and the Sample Drawings of the Northern Rivers Local Government Development & Designs. The drawings are to provide for the following works:

- a) Service Conduits**
Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.
- b) Inter-allotment Drainage**

Inter-allotment drainage to an approved public drainage system for each of the proposed new allotments where it is not possible to provide a gravity connection of future roofwater to the kerb and gutter.

c) Footpath Construction

A minimum 1.2m wide all weather footpath within the proposed 1.2m access easement, together with suitable fencing, to provide pedestrian access from proposed Lot 2 to Carlyle Street. Services must not obstruct pedestrian access.

4) Consent required for works within the 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 adopted engineering standards, currently Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings, and are to provide for the following works:

a) Driveway (residential areas)

A driveway in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings" for access to the existing garage on proposed lot 1. A sealed pavement is to be provided from the edge of the existing road to the gutter generally in accordance with Council Standard Drawing No. R-14 and a concrete driveway constructed from the gutter to the property boundary generally in accordance with Council Standard Drawing No. R-05.

5) Water and Sewerage - Section 68 Part B approval required

An **Approval** under Section 68 Part B of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

Each Strata title lot of land shall have an individual service tapped from the main. Each Strata Lot shall have a separate water meter

Any new water service and meter will be at the applicants cost.

The following conditions must be complied with prior to commencement of subdivision works

6) Subdivision Work

Subdivision work in accordance with the development consent must not be commenced until a construction certificate has been issued, a principal certifying authority has been appointed and at least 2 days' written notice for the intention to commence works has been made, in accordance with the requirements of the Environmental Planning and Assessment Act and Regulations. The written notice for the intention to commence works must also include names and contact details of the certifying engineer and principal contractor.

Note. Subdivision work means any physical activity authorised to be carried out under the conditions of this development consent for the

subdivision of land, including earthwork, road work, stormwater drainage work, landscaping work, tree/vegetation removal, erosion and sediment control, traffic control, etc.

The following conditions must be complied with during construction of subdivision works

7) 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).

8) 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:

- c) Monday to Friday, from 7 am to 6 pm.
- d) 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.

9) Erosion & 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 website. Particular attention is to be given to the provision of the following sediment and erosion control measures:

- Temporary driveway from the edge of road to the works site
- Silt fence or sediment barrier

10) Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council is not held responsible for any negligence caused by the undertaking of the works.

11) Council Specification

All works to be constructed to at least the minimum requirements of the "[Northern Rivers Local Government Design and Construction Manual](#)"

12) Approved Plans to remain on site

A copy of the approved Construction Certificate including plans, details and specifications must remain at the site at all times during the construction of the subdivision.

The following conditions must be complied with prior to issue of a Strata Certificate

13) Strata Certificate application required

An application for a Strata Certificate must be made on the approved form if lodged with Council. The Strata Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application.

NOTE: The application MUST be one complete concise package addressing ALL conditions of consent relevant to the subdivision with a clear explanation how each condition has been complied with, together with supplying ALL the relevant information/documents/certificate and/or plans that is required by that condition. Failure to provide the abovementioned information in one package, will likely result in the application being refused or rejected and returned to you.

14) Strata Plan

The strata plan must be in accordance with the approved plan/s. A strata plan administration sheet (original plus one (1) copy), two (2) copies of the strata plan and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a Strata Certificate if lodged with Council.

15) Developer Contributions to be paid

Contributions set out in the schedule below are to be paid to Council prior to the release of a subdivision certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at <http://www.byron.nsw.gov.au/> or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

Section 94 contributions Schedule for Byron Bay Suffolk Park Catchment					
This schedule was calculated in spreadsheet #E2015/28112					
1 bedroom units =	0	@	0.55 SDU	=	0
2 bedroom units =	0	@	0.75 SDU	=	0
3 bedroom units/dwellings =	0	@	1 SDU	=	0

Allotments =		2	@	1	=	2
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	1
Schedule valid until		25/07/2018			After this date contact Council for CPI update.	
Local Open Space & Recreation	(OS-BB)	1.00	SDU @	\$ 4,117.39	=	\$ 4,117.39
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @	\$ 741.09	=	\$ 741.09
LGA wide Community Facilities	(CF-SW)	1.00	SDU @	\$ 1,085.41	=	\$ 1,085.41
Local Community Facilities	(CF-BB)	1.00	SDU @	\$ 1,223.07	=	\$ 1,223.07
Bikeways & Footpaths	(CW-BB)	1.00	SDU @	\$ 1,355.91	=	\$ 1,355.91
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @	\$ 79.62	=	\$ 79.62
Urban Roads	(R-BB)	1.00	SDU @	\$ 3,071.55	=	\$ 3,071.55
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 224.25	=	\$ 224.25
Rural Roads	#N/A	1.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,120.96	=	\$ 1,120.96
Total					=	\$ 13,019.25

16) Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans. The certificate to be obtained prior to the issue of the Strata Certificate

Byron Shire Council acts as Rous Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.

Note: Copies of the application forms for Certificates of Compliance are available on Council's website http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Water on 02 6626 7081. Applicable charges can be found on Council's website: <http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Payment by Personal or Company Cheque will not be Accepted

17) Section 88B Instrument

A Section 88B Instrument and one (1) copy are to be submitted with the application for a strata certificate. The strata plan and accompanying Section 88B Instrument are to provide for:

- a) **Rights of Footway**
The creation of a right of footway 1.2m wide over the pedestrian access to Carlyle Street for proposed Lot 2.
- b) **Restricting Development – Single Dwelling**
Restricting residential development of each lot to no more than a single dwelling.
- c) **Inter-allotment Drainage Easements**
The creation of easements for drainage of water, with a minimum width of 1.2 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments, where not created as common property.
- d) **Easement for Services**
The creation of suitable easements for services over all services and/or service conduits located within the proposed allotments, where not created as common property.
- e) **Easement for Electricity**
The creation of any necessary easements for electricity purposes as required by the electricity supply authority.
- f) **Restricting Development – On-site Stormwater Detention**
Restricting residential development of proposed Lot 2 until the proprietor has constructed or made provision for the construction of an on-site stormwater detention system to the requirements of Byron Shire Council.
- g) **Positive Covenant – On-site Stormwater Detention**
Creation of a positive covenant over proposed Lot 2 to ensure the maintenance of the future on-site stormwater detention system.

18) Completion of All Works

All subdivision works required by this development consent, and associated Construction Certificate, are to be completed prior to issue of the Strata Certificate. A copy of the final completion letter/s, issued by the Principal Certifying Authority, and final plumbing certificate, issued by the water supply authority, for the relevant subdivision works must be submitted with the application for a Strata Certificate.

19) Certificate for services within easements

The submission of a certificate from a registered surveyor certifying that all pipelines, structures, access driveways and/or services are located wholly within the relevant easements.

20) Electricity Supply Certificate

Written evidence from an electricity supply authority is to be submitted with the application for a Strata Certificate stating that satisfactory arrangements have been made for the provision of electricity supply throughout the subdivision.

21) Telephone Supply Certificate

Written evidence from a telephone supply authority is to be submitted with the application for a Strata Certificate stating that satisfactory arrangements have been made for the provision of telephone supply throughout the subdivision.

22) Geotechnical Report (Lot Classification)

A certificate from a practicing Geotechnical Engineer must be provided in conjunction with a Lot Classification Report prepared in accordance with

Australian Standard AS2870.1. Such certificate must certify that all vacant allotments have a building site of adequate size and shape on each lot that is not unreasonably subject to slip or subsidence.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

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 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under 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 NOTES

Water payments under the Water Management Act 2000

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT **(ET Policy No:13/005)**

Water	1 ET
Bulk Water	1 ET
Sewer	1 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>). These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

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

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

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.