

1. CONDITIONS OF CONSENT

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.	Revision No.	Plan Title	Drawn by	Dated
02	DA-D	Site Plan / Section	Harley Graham Architects	24/05/2022
Sketch 1	-	Roadworks, Parking , Pedestrian & Cycle Network	Annotated by Council	As stamped by Council
03	DA-D	Roof Plan	Harley Graham Architects	24/05/2022
04	DA-D	Building Ground Floor Plan	Harley Graham Architects	24/05/2022
05	DA-D	Building First Floor Plan	Harley Graham Architects	24/05/2022
06	DA-D	Car Parking Plan – Ground Floor	Harley Graham Architects	24/05/2022
07	DA-D	First Floor – Car Park	Harley Graham Architects	24/05/2022
08	DA-D	Sections	Harley Graham Architects	24/05/2022
09	DA-D	Elevations	Harley Graham Architects	24/05/2022
10	DA-D	Elevations	Harley Graham Architects	24/05/2022
11	DA-D	Elevations	Harley Graham Architects	24/05/2022
J6799-0001	B	Civil Layout Plan (Annotated by Council)	Planit	As stamped by Council
J6799-0003	B	Stormwater Treatment System Section	Planit	24/02/2022
J6799-0005	A	Sediment and Erosion Control Plan	Planit	15/04/2022
SWMP01	E	Stormwater Management Plan	Planit	22/02/2022
216451	1	Detailed Site Investigation	ENV Solutions P/L	25/05/2022
RGS32328 .1 AB	-	Geotechnical Report	Regional Geotechnical Solutions	25/09/2020
Crgref:210 34 report	rev. 1	Environmental Noise Impact Report	CRG Acoustics	21/12/2021
-	-	Acid Sulfate Soil & Water Management Plan	-	-

-	-	Unexpected Findings - Protocol	-	-
-	-	Dewatering Management Plan	-	-
-	-	Groundwater Contingency Management Plan	-	-

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 (if applicable)**

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	\$10000
Inspection fee	\$180

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. **Footing Design – Carpark**

Footing design must be in accordance with recommendations provided in Geotechnical

6. **Excavation depth and dewatering limited**

Excavations and dewatering beyond final approved levels shown on cross section plans required as part of the application for a construction certificate is not permitted without prior approval from council. Such approval must be obtained after the date of this consent.

7. **Approved Plans – Remediation of Land**

In accordance with Detailed Site Investigation Ref: 216451 (REV1) prepared by ENV Solutions dated 25/05/2022, works for the development must be in accordance with Approved Plans DA-D.DWG.02 & DA-D.DWG.03 (Issue - 10/3/22) prepared by Harley Graham Architects.

Advisory Note: Due to the potential environmental impacts resulting from a variation to the approved development footprint, any modifications and/or alterations to the development layout is not permitted without a development approval subsequent to the date of this consent.

8. **Landscape Construction - Gardens Beds**

Native site soils must not be reused for landscaped garden constructions. All landscape gardens beds must be created with the use of imported certified clean soil material. All receipts for imported soil must be retained on site and provided to Council upon request.

9. **Groundworks must not commence**

Works involving excavations at or below the natural ground surface must not commence until the Construction Certificate has been approved by Council.

10. **Soil Berm – Not Approved**

Construction of a soil berm (4.0m wide x 1.8m high) along the southern boundary of the multi storey carpark is not approved under this consent.

11. **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 application is approved subject to the development complying at all times with requirements of the Bushfire risk management assessment Report by Bushfire Safe (Australia) Pty Ltd dated March 2021 which provides conditions that require that the upgrades to the existing Building shall be within a BAL-29 Bushfire Attack Level.

12. **Protection of TfNSW Infrastructure and Rail Operations General Conditions**

- a. Access to and construction activities on part of Lot 4729 DP 1228104 is strictly prohibited until such legal ownership of part of Lot 4729 DP 1228104 is fully transferred to the Applicant
- b. Prior to commencing construction of the car park building, the Applicant must provide John Holland Rail (JHR) with a Risk Assessment/Management Plan and detailed Safe Work Method Statements for its review and comment.
- c. The Applicant must submit an application to JHR for approval of TAHE prior to any use of cranes and equipment in the air space over the rail corridor. The use of cranes and equipment must be in accordance with the AS 2550 series of Australian Standards,

Cranes, Hoist and Winches, including AS2550 15-1994 Cranes - Safe Use - Concrete Placing Equipment. Should such equipment be required at any time, the Applicant must submit an application to JHR for its endorsement and TAHE's approval in advance. The Applicant is advised to contact JHR's Third party works team via CRN.3rdpartyworks@jhq.com.au

- d. Prior to commencing any works on the project site, the boundary fencing along the rail corridor must be installed and maintained at all times by the Applicant at its costs in accordance with JHR's engineering standards which are available at <http://jhrcrn.com.au/media/2071/crn-cp-511-v1-1.pdf>. Prior to installation, the Applicant will be required to submit an application to JHR for its endorsement and for TAHE's approval through our Third party works team via CRN.3rdpartyworks@jhq.com.au
- e. To install new fencing along the rail corridor, the Applicant must provide JHR with a survey done by a registered surveyor to define the common boundary along the rail corridor and to obtain approval from TAHE as the landowner of the rail corridor to the definition of the common boundary.

13. **Roads and Maritime Services (RMS) requirements**

Any roadwork on classified roads is to be designed and constructed in accordance with the current Austroads Guidelines, Australian Standards and TfNSW Supplements.

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

14. **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.

15. **Subdivision registration and Land to be consolidated**

Prior to issue of a construction certificate, the new lot created by subdivision (boundary adjustment) approved by Council under DA 10.20210.750.1 is to be registered with NSW Land Registry Services.

All separate parcels of land are to be consolidated into one allotment and registered with

NSW Land Registry Services. Including Lot 9 on DP 818197, Lot 51 on DP 844054 and part of land excised from Lot 4729 on DP 1228104 new lot created by subdivision (boundary adjustment) approved by Council under DA 10.20210.750.1.

16. Protection of TfNSW Infrastructure and Rail Operations

- a. Prior to issue of any construction certificate involving works of penetration of ground to a depth of at least 2m below ground level (existing) on land in, above or adjacent to (within 25m measured horizontally) the relevant rail corridor, the Applicant shall consult with John Holland Rail (JHR) and Transport for NSW (TfNSW) and provide the relevant documentation to JHR and TfNSW as required from time to time and obtain written endorsement from JHR and TfNSW for the relevant construction stage. A summary report for the relevant construction stage shall also be provided to TfNSW to demonstrate that the submitted documentation has satisfied the relevant conditions. The Principal Certifying Authority (PCA) must not issue the relevant construction certificate until such time as it receives written confirmation from TfNSW that the relevant conditions have been complied with.
- b. Prior to issue of a construction certificate, the Applicant must provide with TfNSW for its review and endorsement the following:
 - o Final geotechnical and structural report drawings. Geotechnical reports should include any potential impacts on the rail corridor;
 - o Details on the design of the retaining wall;
 - o Final construction methodology for any staging of the works including but not limited to the excavation and retaining wall, with construction details pertaining to structural support during excavation or ground penetration;
 - o Detailed survey plan.
- c. Prior to the issue of the relevant construction certificate, the Applicant must provide a detailed assessment for track settlement to JHR and TfNSW for their approval, should the rail corridor become operational before construction.
- d. Prior to the issue of the relevant construction certificate, the Applicant must undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have an impact on rail services and signalling. In the event rail services are identified within the subject development site or within close proximity to the development site, the Applicant must discuss with TfNSW as to whether these services could be affected by the works proposed or if they are to be relocated or incorporated within the site.

17. Vegetation Management Plan to be amended

Prior to issue of a Construction Certificate, the Vegetation Management Plan (VMP) is to be amended and the plan submitted to and approved by Council. The amended plan is to incorporate the following changes:

- a. Remove any reference to the 'Statement of Landscape Intent' which is to apply only to areas outside of the areas zoned C2 and C3.
- b. Include an updated map depicting the accurate location of the area subject to the VMP (i.e., the entirety of the areas zoned C2 and C3) and removing any reference to 'open green space'.
- c. Include a map depicting the location of monitoring quadrats and/or transects and photo points.
- d. Provide detailed restoration strategies for each of the Rehabilitation Zones, with the aim of establishing a swamp sclerophyll forest on coastal floodplain community comprising a tree layer, shrub layer and understorey across the entirety of the areas zoned C2 and C3.
- e. Define "primary works" as the first treatment of weeds and first stage of plantings.
- f. Include the installation of at least three (3) nest boxes.

- g. Detail a monitoring and reporting program that includes:
 - i. The establishment of defined monitoring quadrats and/or transects to be sampled at specified intervals throughout the VMP works program, including by recording weed and native species present, the percentage cover of each species within each quadrat and/or transect, and the percentage cover in each strata (tree layer, shrub layer and understorey).
 - ii. Inspections of nest boxes to monitor and identify fauna species use.
 - iii. A list of quantifiable performance indicators for each year of the program to provide a means of measuring the progress of restoration and management works.
- h. Include details of strategies to be used to restrict breeding opportunities for the introduced cane toad (*Bufo marinus*).

18. **Native vegetation to be retained and protected**

Native vegetation outside of the area described as 'Proposed Works / Clearing Footprint' on Figure 24: Proposed Vegetation Clearing Plan of the report titled *Basic Terrestrial Flora and Fauna Assessment – 156-159 Jonson Street* prepared by Planit Consulting and dated 14/04/2021 is 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 AS 4970-2009 - *Protection of trees on development sites*. The fence must:

- a. Be located outside the dripline of trees 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 (e.g., 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 AS 4970-2009.

Activities that are excluded within the TPZ (as per section 4.2 of AS 4970-2009) 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.

19. **No native vegetation removal prior to Construction Certificate**

No native vegetation may be cleared or removed until a Construction Certificate has been issued.

20. **Detailed landscaping plan required**

Prior to the issue of a Construction Certificate, the 'Statement of Landscape Intent' must be amended and incorporated into a detailed landscaping plan. The detailed plan must include all landscaping within the site external to the areas zoned C2 and C3. The landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014. The detailed plan must:

- a. Remove any non-native species and replace them with species that correspond to the naturally occurring vegetation community of the locality.

- b. Ensure landscaping must be located within the site only and not on Rail land or on the Road Reserve. Any planting on the boundary that will encroach into the road reserve including any planting of the proposed green wall will require separate approval by Council's infrastructure services.
- c. Select tree species that correspond to the naturally occurring vegetation community of the locality that will provide extensive shade and aim for 100% canopy over the uncovered areas at ground level should be selected.
- d. Expand the areas of trellis on the upper car park level while still allowing for good solar access for the PV panels.
- e. Investigate the introduction of a trellis over the ramp to the upper level to improve the appearance of the car park from Jonson Street.

The plan is to be prepared by a suitably qualified landscape architect/ecologist who has appropriate knowledge of the biodiversity of the north coast of NSW and experience and competence in landscaping.

21. **Design excellence sustainable design principles**

The following is required to be addressed prior to issue of a construction certificate:

- a. Develop a sustainability strategy and deliver a coherent reporting framework that delivers best practice sustainability outcomes that sets the standard for future developments in the region. The reporting framework should identify the roles and responsibilities of the applicant, and future reporting bodies.
- b. Develop a schedule of regular meetings to have ongoing open and constructive communication with Byron Shire with nominated council sustainability officer or independent expert to review progress of the sustainability strategy/environmental management plan
- c. Develop a set of quantifiable metrics for analysing and reporting the performance of the development. This should include but not be limited to:
 - i. tCO2-e /annum (residential, non-residential)
 - ii. kWhr- Mj/ annum total energy consumption by fuel source
 - iii. kl potable water /annum consumption (residential, non-residential)
 - iv. kl harvested water /annum (water balance reporting)
 - v. kl recycled grey water if any
 - vi. kWhr/annum renewable energy generation
 - vii. kWhr/ annum EV charging
 - viii. carbon neutrality reporting (offsets and renewable power purchase)
 - ix. waste generation and minimisation strategies

22. **National Construction Code Requirements**

The development is approved subject to the development complying with the requirements of the National Construction Code Report Prepared By: Paul Mackie / Leon Newland, Date: 14 June 2021, Version:2.

The application for a Construction Certificate is to include plans and specifications that demonstrate the development complies with the National Construction Code Report Prepared By: Paul Mackie / Leon Newland, Date: 14 June 2021, Version:2

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

23. **Access and facilities for disabled**

The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with access disabilities to and within the development in accordance with AS 1428.1 - Design for Access and Mobility and Part D3 of the Building Code of Australia.

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

24. **Compliance required with Building in the Vicinity of Underground Infrastructure Policy**

All developments must comply with Policy: Building in the Vicinity of Underground Infrastructure 2020.

The use of displacement and screw pile construction methods will require approval by Council.

Any retaining wall / brick / masonry fence crossing a pipeline requires Council approval. The fence must be supported such that it does not cause loading on the pipes zone-of-influence.

A minimum horizontal clearance of 1.5m from the centre is required around existing access structures of Water and Sewerage network as well as minimum vertical clearance of 3m from finished ground level is required.

25. **Water and Sewerage - Section 68 approval required**

If required, an **Approval** under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

Water metering to be in accordance with Byron Shire Council's water metering requirements See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

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

26. **Trade Waste - Section 68 Part C approval required**

An **approval** under Section 68 Part C of the Local Government Act 1993 to discharge trade waste into Council's sewer must be obtained in accordance with NSW Office of Water Liquid Trade Waste Regulations Guidelines 2009, Council's Liquid Trade Waste Policy and Liquid Trade Waste Guidelines.

Commercial, business, trade and industrial activities discharging or proposing to discharge to the sewer are required to notify Council and complete the Trade Waste Registration Form available at the Mullumbimby Office and from Council's website at:

http://www.byron.nsw.gov.au/files/publications/liquid_trade_waste_application_form_0.pdf

Trade Waste approval must be obtained prior to gaining Section 68 Part B approval to carry out water supply work and sewerage work.

27. **Flood Planning Level**

The flood planning level for this development is R.L. 3.32m A.H.D. The plans and specifications to accompany the construction certificate application are to 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.

28. **Geotechnical Report required – Building Works**

A certificate from a professional Engineer experienced in Geotechnical Science is to be provided to the Principal Certifying Authority, certifying that the site is stable and will not be affected by landslide or subsidence at, above or below the site when the building is erected. The certificate must be prepared in accordance with AS 1726.

29. **Geotechnical Report required – Engineering Works**

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority, certifying that:

- the design of the civil engineering works, including retaining walls and/or cut & fill batters, has been assessed as structurally adequate,
- the civil engineering works will not be affected by landslip or subsidence either above or below the works; and
- adequate drainage has been provided.

30. **Sediment and Erosion Control Management Plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

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”.

31. **On-site stormwater detention and stormwater quality improvement devices required**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard, Northern Rivers Local Government Guidelines and other relevant guidelines. All stormwater drainage for the development must be conveyed via an on-site stormwater detention system by gravity in accordance with the approved plans

Fully detailed design and construction plans of the internal and external stormwater drainage system including the provision of On-Site Detention (OSD) and Stormwater Quality Improvement Devices (SQIDs) in accordance with the approved plans.

The following must be provided/included as part of the detailed design for the section 68 application;

- Underground stormwater drainage in Jonson St in accordance with the annotated Civil Layout Plan J6799-001
- Upgrade swale drain including measures to mitigate erosion along the eastern side of the development site to the lawful point of discharge
- On-Site Detention System (OSD) with 46m³ volume, 240mm orifice (minimum), 375mm diameter outlet pipe and a High Early Discharge (HED) system

Note: Reduction of OSD volume and orifice sizing and the deletion of the HED system will require lodgement of Section 4.55 application to Council for the amendment of the consent

- Stormwater Quality Improvement Devices (SQIDs)
 - 1 x 46m³ detention tank;
 - 2 x Ocean Protect Stormfilter (Model – 2C – SFCP-1212-1A);
 - 2 x Ocean Protect Ocean Guard litter baskets; and
 - 12 x Ocean Protect Stormfilter cartridges (Model-SF-OSD-SD).
 - Sump and pump system including a treatment chamber in the covered area.
- Maintenance of SQIDs – Maintenance Contract
Written evidence to be provided that the owner/developer has entered into a minimum five (5) year signed and endorsed maintenance contract with a reputable and experienced cleaning contractor for the maintenance of the SQIDs

Note: Reduction and or replacement of the number and types of SQID with an alternate manufacturer's product will require lodgement of Section 4.55 application to Council for the amendment of the consent

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

All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

- a) comply with any requirements for the disposal of stormwater drainage and on-site stormwater detention contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and
- b) unless exempt from obtaining an approval under section 68 of the Local Government Act 1993 by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate.

32. **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 current Design & Construction Manuals and are to provide for the following works:

Roadworks, Parking, Pedestrian and Cycle Network in Jonson St

Design in accordance with approved annotated Sketch 1 and Norther Rivers Local Government Guidelines and associated drainage construction, cycle and footpath formation including any necessary relocation of services

- The footpath crossing must be designed to provide a cross fall of 1 % or 1:100 (maximum 2.5% or 1 in 40) for a width of at least 2.4 metres to provide for pedestrians with access disabilities.
- Road formation in accordance with Norther Rivers Local Government Guidelines
- Pavement design to cater for the maximum commercial traffic in accordance with Austroads Guide to Pavement Technology Part 2: Pavement Structural Design
- Provision of upright kerb & gutter
- Streetlighting in accordance AS1158
- Provision of a cul-de-sac head at the end of Jonson St
- Footpath & cycle path network and ramps
- Measures to prevent vehicles from crossing the centreline in the first section of Jonson St, south of the intersection of Butler St Bypass Rd and Jonson St

- Full concrete verge in the development side of Jonson St
- Underground stormwater drainage
- Redesign of the on-street parking in accordance with AS2890.1 and AS2890.5 and include any relocation or installation of signage.
- Line marking and central concrete islands
- Installation of moveable bollards or lockable gate at the end of the new road formation in Jonson Street to prevent unauthorised access.

33. **Public Safety Management Plan required**

Prior to issue of the construction certificate, consent from Council must be obtained for a Public Safety Management Plan for those works within the road reserve pursuant to Section 138 of the Roads Act 1993. This public safety management plan is to include provision for (but not be limited to):

- a) a pedestrian barrier, alternative footpaths and ramps as necessary;
- b) an awning sufficient to prevent any substance from, or in connection with, the work falling into the road reserve;
- c) lighting of the alternative footpath between sunset and sunrise;
- d) the loading and unloading of building materials;
- e) parking space for tradesman's vehicles, where such vehicles must be located near the site due to tools and equipment contain within the vehicle;
- f) Removal of any such hoarding, fence or awning as soon as the particular work has been completed.

The temporary use of Council land/road reserve to enable construction work or an event is subject to fees in accordance with Council's adopted fees and charges. The use fee must be paid upfront prior to use and will generally be required to be paid prior to issue of the Council's consent for such use.

34. **Traffic Management Plan (TMP)**

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Management Plan (TMP) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The TMP is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The report must incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TMP and associated traffic guidance scheme/s must be prepared by a suitably qualified Transport for NSW accredited person

35. **Car parking layout, vehicle circulation and access plans required.**

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 and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

General Requirements

- a) 24 x bicycle spaces
- b) 4 x User Class 4 parking spaces
- c) User Class 3A for the remaining parking spaces
- d) Column locations must meet the requirements of clause 5.2 of AS2890.1:2004
- e) pavement design, comprising an all-weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- f) site conditions affecting the access;
- g) existing and design levels;
- h) longitudinal section from the road centreline to the car space(s);
- i) cross sections every 15 metres;
- j) drainage details;
- k) turning paths; and
- l) line marking and signage.

Redesign of the Loading Bay Area

- a) Relocate the pedestrian path to connect onto the pedestrian & cycle path in Sketch 1 and the pedestrian path in the parking area adjacent to the Pump room
- b) Design to accommodate 2 x MRV loading bays

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

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".

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.

36. **Waste management plan – operational details required**

Prior to issue of a Construction Certificate, the detailed waste management plan prepared by Craig Helbig; Senior Environmental Scientist (CEnvP) dated 01/06/2022 (Council Record Doc # E2022/51264) is to be amended to incorporate the following detail to the satisfaction of Council:

- a. Types of waste avoidance. Including procedures, policies, inductions for educating staff and the need to ensure these systems are intuitive to understand how policies,

education and changes in waste industry will be managed during operational phase of development.

- b. The operators commitment to digester for food waste including evidence that Veolia can service the liquid generated from digester -servicing of this can be demonstrated via a signed commercial agreement with contractor removing liquid to be provided to council prior to operations commencing.
- c. Commitment to be part of Byron shire council 'towards zero' strategy including active programs to assist with the reduction of waste generated by operation.
- d. Provide signage/ types of bins to be used that are situated in the carpark and plaza areas- these can be in line with current Byron shire council signage. IT is required that the operator uses the same signage as Byron shire council public place bins to avoid confusion and ensure consistency.
- e. Need to ensure and encourage separation of waste streams by clientele.
- f. Use of compostable containers for any takeaway food items, reduction in the use of plastic or single use containers.
- g. The nominated bin storage area on architectural plan is to be increased by an additional 1570 mm internal depth to provide internal dimensions of 6046 mm wide x 4709 mm deep as shown on stamped plans marked by Council.

Such plans and specifications must be approved by Council's Resource Recovery team prior to the issuing of the Construction Certificate.

37. **Garbage storage area to be provided**

The application for a Construction Certificate is to include plans and specifications that indicate the proposed waste material store area. The proposed garbage store area is to be designed and constructed to provide sufficient capacity for the range of waste storage containers required for all the waste management activities conducted in association with the development.

In particular, the nominated bin storage area on architectural plans is to be increased by an additional 1570 mm internal depth to provide internal dimensions of 6046 mm wide x 4709 mm deep as shown on stamped plans marked by Council.

Adequate ventilation, lighting, fire response and access to be provided to ensure safe and healthy conditions can be maintained for the protection of workplace health and safety. Provision to be made for waste collection vehicle movement and lifting height requirements for all types of waste storage bins.

Such plans and specifications must be approved by Council prior to issue of the Construction Certificate.

38. **Acid Sulfate Soils & Water Management Plan required**

An Acid Sulfate Soils & Water Management Plan (ASSWMP) must be submitted for Council approval prior to the issue of a construction certificate for building works. The ASSMP must deliver the following:

- a. Investigation and reporting for the ASSMP must be undertaken by a duly qualified professional environmental scientist.
- b. Description of the site, including maps and area(s) of disturbance.
- c. A site plan, to an appropriate scale, must detail the exact location of all treatment, chemical storage and transport affected parts within the boundaries of each property.
- d. Site attributes including site landform and geology, details of any native vegetation, depth to watertable and likely seasonal variation.
- e. Details of all measures to avoid/minimise any disturbance of ASS and dewatering of excavations.

- f. Location and details of groundwater bores.
- g. Maximum depth of excavation and level in AHD, volume of soil to be excavated, timing of works, water quality testing, calculated cone of depression.
- h. A 'duly qualified professional scientist' must be accountable for managing, monitoring, and reporting on the ASS and PASS remediation program.
- i. Contact details and appropriate qualifications and professional indemnity insurance to be included.
- j. Full details of calculations used to determine the liming rate or any other ameliorant.
- k. The specifics of all operator training, monitoring, testing, and recording to be carried out during the ASS and PASS remediation program.
- l. An emergency management plan that includes all likely eventualities where ASS and PASS soil, alkaline chemicals or other environmentally harmful substances may be washed, blown or otherwise escape from the excavation site, transport vehicle or treatment containment areas.
- m. The specifics of the final soil monitoring criteria, final waste classification as per NSW EPA Waste Classification Guidelines (2014) and proposed final point of disposal of soil excavated from the subject property.
- n. Details of measures to ensure that acid drainage waters are not discharged to Council's stormwater system nor any watercourse or drainage channel.
- o. Remediation and management of ASS and PASS must be in accordance with the Acid Sulfate Soil Manual (NSW ASSMAC 1998) and best practice methodologies required by conditions of this consent.
- p. Management of as per ENV Solutions (Detailed Site Investigation Ref: 216451 dated 25/05/2022) and Unexpected Findings Protocol required by conditions of this consent.
- q. Management as per Regional Geotechnical Solutions (Geotechnical Report Ref: RGS532328 dated 25/09/2020), Acid Sulfate Soils & Water Management Plan and Dewatering Management Plan required by conditions of this consent.
- r. Remediation and emergency contingencies responses for incidents occurring in particular in the event of non-compliance.

The ASSWMP must be approved by Council's Environmental Health Officer prior to the issue of a Construction Certificate for Building Works.

39. **WaterNSW Licence – Dewatering (where required by WaterNSW)**

A licence must be obtained from the WaterNSW for the dewatering of excavations and any associated groundwater monitoring bores.

40. **Construction Dewatering Management Plan required**

A Construction Dewatering Management Plan (DMP) must be submitted for Council approval prior to the issue of a construction certificate for building works. The DMP must include:

- a. Copy of licence from the WaterNSW for the dewatering of excavations and any associated groundwater monitoring bores (as required);
- b. Management recommended by ENV Solutions (Detailed Site Investigation Ref: 216451 dated 25/05/2022), Unexpected Findings Protocol and Acid Sulfate Soils & Water Management Plan required by conditions of this consent.
- c. Water quality criteria for waters to be discharged to the stormwater system, to be derived from ANZECC / ARMCANZ (2000) Fresh and Marine Water Quality Guidelines 95% species protection trigger levels for freshwaters, or similar. Parameters to include, but not be limited to, pH, electrical conductivity, dissolved oxygen, total suspended solids,

turbidity, ammonia, oxidised nitrogen (NOx), Total Nitrogen (TN), Filterable Reactive Phosphorus, Total Phosphorus, Total Petroleum Hydrocarbons, Benzene, toluene, ethyl benzene, xylene (BTEX), Polycyclic Aromatic Hydrocarbons (PAHs) and Aluminium.

- d. Details of all measures to avoid/minimise disturbance of ASS and dewatering of excavations.
- e. Details of proposed water treatment prior to discharge to ensure compliance with the above water quality criteria, including those that are manual and automated.
- f. Site plan that demonstrates the location of all dewatering equipment and tanks.
- g. Details of water sampling methodologies and frequencies for each parameter.
- h. Details of disposal methods if water does not comply with above criteria.
- i. Details of a 24-hour contact person and telephone number for complaints.

Investigation and reporting must be undertaken by a duly qualified professional scientist.

41. **Groundwater Contingency Management Plan required**

Application for a construction certificate must include a Groundwater Contingency Management Plan. This Plan must have reference to the findings of ENV Solutions (Detailed Site Investigation Ref: 216451 dated 25/05/2022) and Acid Sulfate Soils and Water Management Plan as approved by Council. The Plan must be prepared by a duly qualified Scientist and approved by Council as part of the Construction Certificate application.

42. **Cross Section Plans required**

Cross Section plans showing the extent excavations below slab excavations for all footings and services (sewer, stormwater, grease traps). Depths of excavations to inform acid sulfate and dewatering management. Cross section plans and specifications must be prepared by a suitably qualified and experienced professional engineer and approved by Council prior to the issue of a Construction Certificate for Building Works.

43. **Unexpected Findings Protocol - Contamination & Remediation**

An Unexpected Findings Protocol (UFP) shall be prepared and submitted to Council for approval prior to the issue of Construction Certificate. The UFP must have due regard for report prepared by ENV Solutions (Detailed Site Investigation Ref: 216451 (REV1) dated 25/05/2022) and must include provision for a duly qualified professional scientist (DQPS) to oversee and provide a waste classification of site soils (with soil analysis to a NATA Laboratory as required). DQPS attendance on site must be clearly defined in the UFP. The UFP must be prepared by a suitable qualified person experienced in matters relating to Contamination of Land and Remediation.

44. **Noise Management Plan – Operations**

The application for the Construction Certificate must include a site-specific Noise Management Plan (NMP) which must have reference to Councils DCP Chapter 4.2.10 (4). The NMP must be prepared by a suitably qualified person and approved by Council prior to the issue to a construction certificate for building works.

45. **Environmental Management Plan – Demolition / Construction**

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to any demolition or construction works commencing. The EMP:

- a. must be prepared by a duly qualified professional with experience in contaminated land matters.
- b. contain details of measures to be undertaken to ensure that demolition and/or construction works for the whole development do not result in any on and off-site impacts that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise.
- c. have reference to recommendations contained in Detailed Site Investigation Ref: 216451

prepared by ENV Solutions P/L dated 25/05/2022.

- d. have reference to the Unexpected Finding Protocol required under this consent.
- e. all works must be in accordance with NSW WorkCover Authority.

The EMP must be approved as part of the application for a construction certificate for building works.

46. **Details of acoustic treatments for building construction to be submitted for approval**

The application for a Construction Certificate must include plans and specifications that demonstrate the inclusion of acoustic treatments for building construction recommended in Environmental Noise Impact Report Ref: Crgref:21034 report rev. 1 prepared by CRG Acoustics dated 21 December 2021.

Such plans and specifications must be approved as part of the Construction Certificate for building works. Plans and specifications must be certified by an acoustic engineer to ensure that plant can meet the noise criterion contained in Section 4.2 and recommendations in Section 6.0. The Construction Certificate for Building Works must not be issued until this condition has been satisfied.

47. **Details of acoustic treatments for rooftop mechanical plant to be submitted**

The application for a Construction Certificate must include plans and specifications that demonstrate the inclusion of acoustic treatments for rooftop mechanical plant including air-conditioning and kitchen exhaust fans recommended in Environmental Noise Impact Report Ref: Crgref:21034 report rev. 1 prepared by CRG Acoustics dated 21 December 2021.

Such plans and specifications must be approved as part of the Construction Certificate for building works. Plans and specifications must be certified by an acoustic engineer to ensure that plant can meet the noise criterion contained in Section 4.2 and recommendations in Section 6.0. The Construction Certificate for Building Works must not be issued until this condition has been satisfied.

48. **External lighting plan to be submitted for approval**

The application for a Construction Certificate is to include plans and specifications that demonstrate that safe minimum standards of lighting (min. 0.2 Lux) can be provided without generation of undue glare and nuisance from the lighting installations. Lighting must mitigate the impact to native fauna and microbat commuting routes. Lighting assessment and design should be undertaken by a suitably qualified professional with competence in the fields of illuminating engineering and environmental design in accordance with AS4282-2019: Control of the obtrusive effects of outdoor lighting and NSW Workcover OH&S requirements.

The plan should include all external lighting including any lighting illuminating the Harris Farm Market signage to be erected onto the northern and southern façade of the building.

49. **Noise and Vibration Management Plan - Demolition / Construction**

A Noise and Vibration Management Plan must be submitted to Council for approval prior to the issue of the construction certificate for building works. The Noise and Vibration Plan must be prepared by a duly qualified professional and detail the methods that will be implemented for the whole project to minimise construction noise and vibration. Information should include:

- a. Identification of the specific activities likely to generate noise or vibration impacts.
- b. Identification of nearby residences and other sensitive land uses.
- c. Identification of all potentially affected sensitive receivers.
- d. Assessment of expected noise and vibration from the construction activities.
construction activities that are likely to affect their amenity or cause structural damage through vibration.
- e. Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts.
- f. Noise and vibration monitoring, reporting and response procedures.
- g. Strategies to promptly deal with and address noise complaints.

Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction.

- h. Details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment).
- i. Procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts.
- j. Reference to relevant consent conditions.
- k. Name and qualifications of person who prepared the report.
- l. Nomination of an appropriate responsible person with appropriate qualifications and experience to implement and manage noise and vibration matters arising from the construction phase of the development. The responsible person must be available to receive neighbourhood inquiries and complaints at any time while work is proceeding and must record monitoring levels and response actions when exceedances or complaints occur.
- m. Contingency plans to be implemented in the event of non-compliance and/or complaints.

Advisory note: Refer to DECC's 'Interim Construction Noise Guideline' (2009) for more information (see <http://www.environment.nsw.gov.au/noise/constructnoise.htm>)

50. **Duly Qualified Professional Scientist to be nominated**

A Duly Qualified Professional Scientist must be nominated to oversee implementation of the Unexpected Findings Protocol and Environmental Management Plan required by conditions of this consent. The name and contact details of the DQPS must be provided to council prior to the issue of a Construction Certificate for Building Works.

51. **Site Waste Minimisation and Management Plan**

Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information www.byron.nsw.gov.au/files/publication/swmmp-pro-forma-.doc

52. **Design and Layout Plans - Food Premises**

Detailed plans prepared by a suitably experienced person showing the design and layout of the premises to be used as a food business must be submitted to Council for approval. The design details are to be drafted in accordance with relevant legislation and standards, including:

- a) Food Act 2003;
- b) Food Regulation 2015;
- c) Food Standards Code, Chapter 3.2.3;
- d) Relevant Australian Standards:
 - i. AS 4674 – 2004 Design, Construction and Fit-Out of Food Premises;
 - ii. AS 1668.1 & AS 1668.2 Mechanical Ventilation;
 - iii. Other relevant standards.
- e) The Building Code of Australia.

Such plans must be approved by Council's Environmental Health Department prior to the issue of a construction certificate for building works. Plans are to be submitted in duplicate and accompanied by fees as described in Council's adopted Fees and Charges.

Advisory note:

Application forms are available from Council's Environmental Health department. The following document [Food premises design, construction and fit-out guide](#) on Council's website can provide guidance about the design requirements of a food premises based on the Food Safety Standard 3.2.3 (Food Premises and Equipment) and the Australian Standard 4674-2004 (Design, construction and fit-out of food premises).

53. **Certificate of Compliance – s307 Water Management Act 2000**

Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous County Council Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

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

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

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, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website: <https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

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

54. **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. 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.

55. **Section 7.12 Levy to be paid**

The levy will be calculated as follows:

Levy payable = %C x \$C

- **%C** is the levy rate applicable as set out in the latest Ministerial Direction issued under section 7.17.
- **\$C** is the proposed cost of carrying out the development.

The rate of %C is:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

The cost of development must be calculated in accordance with clause 25J of the Regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 7.12 contributions plan must be submitted to Council with the payment. The cost summary report must be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from Council's website.

Note: A monetary contribution that is required to be paid under this consent must be paid before the issue of the first occupation certificate in respect of any building to which this consent relates, except if no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the construction certificate after that date for any such building.

56. **Voluntary Planning Agreement to be executed - Provision of public art**

Prior to the issue of a construction certificate a planning agreement for the payment of \$166,600.00 for public art in the general form of the offer made pursuant to [S7.7 \(3\) of the Environmental Planning and Assessment Act](#) shall be executed by both parties. (Refer letter of offer at Council Record Doc # E2022/49780)

57. **Tree Removal**

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

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

58. **Erosion and sediment Control Management Plan required**
Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.
- Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.
- Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).
- Note: Council may impose on-the-spot fines for non-compliance with this condition.**
59. **Acid Sulfate Soils**
Acid sulfate soil controls are to be in place in accordance with any approved Acid Sulfate Soil Assessment & Water Management Report required by conditions of this consent.
60. **Signs to be erected on building and demolition sites**
A sign must be erected in a prominent position on the work site:
- stating that unauthorised entry to the work site is prohibited, and
 - 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.
61. **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.
62. **Copies of Approved Plans**
Copies of approved plans required by conditions of this consent must be kept in a prominent location on site where they can be easily accessed by construction and operational personnel.
63. **Approved Environmental Plans must be implemented**
All controls and measures must be maintained in accordance with approved plans and reports contained in condition 1 of this consent. The applicant is required to ensure that the construction management and all construction staff are made aware of their responsibility to abide by the approved plans.
- Advisory note:** non-compliances may result in on the spot fines.
64. **WorkCover Authority**
All works must be undertaken in accordance with the requirements of the WorkCover Authority.
65. **Site Construction Signs**
Site construction signs are to be maintained at the frontage to the site until all works are completed.
66. **Traffic Management Plan**
The approved traffic management plan is to be implemented.
67. **Public safety requirements**
All care is to be taken to ensure the safety of the public in general, road users, pedestrians

and adjoining property. The public liability insurance cover, for a minimum of \$20 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

68. Dilapidation Reports required

Prior to the commencement of any excavation works requiring rock drilling, blasting or breaking, a pre-construction Dilapidation Report is to be submitted to Council detailing the current condition of all adjoining buildings, infrastructure and roads.

A second Dilapidation Report must be submitted to Council, prior to occupation of the building (whole or partial), to ascertain if any structural damage has occurred to any adjoining building, infrastructure or roads

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

69. 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.

70. 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.

71. 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.

72. Environmental Noise Impact Report

Building and associated works to be carried out in accordance with Environmental Noise

Impact Report Ref: Crgref:21034 report rev. 1 prepared by CRG Acoustics dated 21 December 2021 (as approved by Council).

73. **Acid Sulfate Soils Management**

Acid sulfate soils must be managed and disposed of in accordance with the approved Acid Sulfate Soil & Water Management Plan. A copy of this report must be kept on the property at all times during construction and made available to any person.

74. **Dewatering Management**

must be managed and disposed of in accordance with the approved Groundwater Contingency Plan. A copy of this report must be kept on the property at all times during construction and made available to any person.

75. **Groundwater Management**

Groundworks for the development must be managed in accordance with the approved Groundwater Contingency Management Plan. A copy of this report must be kept on the property at all times during construction and made available to any person.

76. **Unexpected Findings Protocol - Contamination & Remediation**

Construction works must be carried out in accordance with the approved Unexpected Findings Protocol (UFP). A copy of this report must be kept on the property at all times during construction and made available to any person.

77. **Protection of native vegetation**

All native vegetation outside of the area described as 'Proposed Works / Clearing Footprint' on Figure 24: Proposed Vegetation Clearing Plan of the report titled *Basic Terrestrial Flora and Fauna Assessment – 156-159 Jonson Street* prepared by Planit Consulting and dated 14/04/2021 must be maintained and protected during construction on the site in accordance with AS 4970-2009 – *Protection of trees on development sites*.

78. **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.

79. **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.

80. **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 cannot accept asbestos. You will need to arrange disposal at an alternate landfill site.

81. **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.

82. **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.

83. **Stormwater drainage work**

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.

84. **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.

85. **Destination for all excavated materials during construction**

The works contractor responsible for the construction and excavation of approved groundworks must develop and maintain a register of materials that will be taken off-site for treatment, disposal, or any other purpose. The register must accurately record the destination and volume of every load of material (including clean soil, recyclable material, acid sulfate or potential acid sulfate soil, radiological waste, asbestos containing materials, sludge from dewatering treatment tanks, etc.). Individual vehicle registrations associated with off-site transport of materials and excavation waste to be recorded in the register.

Council must be provided with a copy of the completed register prior to the issuing of the Occupation Certificate.

Advisory note: No transporting of unclassified waste, hazardous materials or material contaminated by demolition waste is permitted to be delivered to unapproved private land within NSW. Heavy penalties apply under the Contaminated Land Management Act for any failure to manage site waste materials.

86. **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 \(2014\)](#)

87. **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](#).

88. **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

89. **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.

90. **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.

91. **Roadworks to be completed**

The roadworks are to be constructed in accordance with the approved plans and Roads Act consent.

92. **Stormwater Quality & Quantity – Certification of works**

All stormwater drainage works, including on-site stormwater detention works, internal drainage system and stormwater quality improvement devices for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate. Certificate/s of Compliance and Work-As-Executed (WAE) plans for the stormwater works must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

The certificate/s and WAE plans are to be prepared by a suitably qualified engineer and must be in accordance with Council's [Comprehensive Guidelines for Stormwater Management](#).

93. **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.

94. **Signage to be erected**

Signage to be erected in a prominent position on the ingress to the top floor of the carpark prohibiting use beyond 6pm Sunday to Wednesday

Signage to include operation hours described below:

Sunday to Wednesday, from 7am to 6pm, Thursday to Saturday, from 7am to 10pm

95. **Certification required – Acoustic Engineer**

An Acoustic Engineer must certify to the consent authority that all acoustic treatments recommended in Environmental Noise Impact Report Ref: Crgref:21034 report rev. 1

prepared by CRG Acoustics dated 21 December 2021 have been installed and meet the noise criterion contained in Section 4.2 and recommendations in Section 6.0.

Certification must be in writing and the Occupation Certificate for Building Works must not be issued until this condition has been satisfied.

96. **Copy of register of excavated materials during construction**

A copy of the register of materials taken off-site for treatment, disposal or any other purpose required by conditions of this consent must be provided to Council prior to the issuing of the Occupation Certificate.

The PCA must not issue the Final Occupation Certificate until Council has provided written acknowledgement that this condition has been met.

97. **Unexpected Findings Protocol - Contamination & Remediation**

The works engineer must certify to the Principal Certifying Authority that all works have been carried out in accordance with the approved Unexpected Findings Protocol (UFP).

98. **Acid Sulfate Soils**

The works engineer must certify to the Principal Certifying Authority that all works have been carried out in accordance with the approved Acid Sulfate Soils & Water Management Plan.

99. **Construction - Food Premises**

Prior to the issue of the occupation certificate the food premises must be constructed in accordance with design and layout plans approved by Council.

Advisory note:

Requirements of Food Standard Code 3.2.3 and Australian Standard AS4674 – 2004 “Design, construction and fit-out of food premises” to be considered to achieve the necessary construction standards for the food business.

100. **Trade Waste**

An approved trade waste device shall be installed, inspected by Council and maintained to ensure that all relevant environment protection and plumbing code standards are satisfied.

101. **Exhaust System**

On completion of the kitchen exhaust-hood installation, provide a certificate and system specifications detailing the air flow velocity readings to Council. The certificate should be completed by a suitably qualified professional and shall ensure that the installation satisfies AS1668.2 “Mechanical ventilation for acceptable indoor-air quality”

102. **Airlock**

An airlock shall be constructed between the toilet facilities and internal workspaces to prevent the transfer of contaminants into the food business and comply with the Building Code of Australia.

103. **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.

104. **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.

105. **Completion of Vegetation Management Plan primary works**

Prior to the issue of an occupation certificate, a monitoring report from a qualified and experienced ecologist and/or bush regenerator to demonstrate that primary works as defined within the approved Vegetation Management Plan for the site have been completed must be submitted and approved by Council.

106. **Section 88E Instrument**

A Section 88E Instrument and one (1) copy are to be submitted with the application for an occupation certificate. The Section 88E Instrument is to provide for:

a) Easement of conservation

A restriction must be applied to the entirety of the areas zoned C2 and C3. The restriction on user must prohibit, except as otherwise permissible by law, all of the following within the area covered by the restriction on user:

- i. the destruction or removal of any native trees, shrubs, grasses or other vegetation, or the planting of any vegetation other than locally native vegetation;
- ii. any act or omission which may adversely affect any native vegetation or any native fauna or their related habitats;
- iii. any act or omission which may result in the deterioration in the natural state or in the flow, supply, quantity or quantity of any body of water or in the natural hydrological regime of the area;
- iv. the creation or maintenance of any tracks through the area;
- v. the removal, introduction or disturbance of any soil, rock or other minerals;
- vi. any structures or dwellings;
- vii. no deposition or accumulation of rubbish or refuse, including garden refuse and weed propagules, nor the use of any of the area for storage of any substance or material.

The s88E Instrument must contain a provision identifying Byron Shire Council as the only person or authority having the power to revoke, vary or modify the restriction on user.

The following conditions are to be complied with prior to commencement of operation of food premises

107. Notification – Food Business

In accordance with Section 100 of the Food Act 2003, the operator of the food business must submit a completed [Food Business Registration form](#) five (5) working days prior to trading. The notification must occur before the food business commences any food handling operations.

108. Council Inspection required – Food Premises

The operator of the food premises shall obtain a satisfactory pre-operational inspection from Council's Environmental Health Officer prior to trading.

Advisory note:

Inspections by Council's Environmental Health Officers can be arranged during the fit-out stage and the final pre-operational inspection. Inspection fees are levied as per Council's adopted Fees and Charges. Note requests for a final inspection must be made with at least five (5) working days' notice.

109. Council to be satisfied contract to operate digester is executed

The operators commitment to digester for food waste including evidence that Veolia can service the liquid generated from digester to be demonstrated via a signed commercial agreement with contractor removing liquid to be provided to council prior to operations commencing.

Evidence of this requirement is to be reviewed and approved by Council's Resource Recovery Team.

The following conditions are to be complied with at all times

110. **Access must be permitted to Council officers**
Access must be permitted to any authorised Council officers during normal business hours for the purpose of ensuring compliance with consent conditions.
111. **Noise Management Plan**
Operations must be undertaken in accordance with the Noise Management Plan as approved by Council and any conditions of consent imposed to control operational noise.
112. **Trade Waste**
All trade waste pre-treatment devices shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
113. **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.
114. **Must not interfere with the amenity of the neighbourhood**
The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:
- a. Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
 - b. All patrons and staff must be made aware that they must keep noise levels down to maintain neighbourhood amenity.
 - c. Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
 - d. All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
 - e. All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
 - f. Goods deliveries and waste collection shall be restricted to daytime operating hours (7am-6pm Monday-Saturday)
 - g. All plant and equipment installed or used on the premises shall be maintained in a serviceable condition and operated in an efficient manner at all times.
115. **Hours of operation**
The development must not unreasonably interfere with the amenity of the neighbourhood. Operations can only occur:
- Market - Retail
Monday to Sunday, from 7am to 9pm.
- Co-Working Space
Monday to Sunday, from 7am to 9pm.
- Food Premises
Monday to Sunday, from 7am to 9pm.
- Carpark - Ground Floor
Monday to Sunday, from 7am to 9pm.
- Carpark -Top Floor
Sunday to Wednesday, from 7am to 6pm, Thursday to Saturday, from 7am to 9pm.

116. **Management of Contaminated Land**

The site must be managed at all times in accordance with any recommendations in the Detailed Site Investigation Ref: 216451 (REV1) (as amended and approved by Council) prepared by ENV Solutions P/L dated 25/05/2022. This may include long-term monitoring, restrictions on use and other matters.

117. **Limited native vegetation removal**

Removal of existing native vegetation from the site is limited to that within the area described as 'Proposed Works / Clearing Footprint' on Figure 24: Proposed Vegetation Clearing Plan of the report titled *Basic Terrestrial Flora and Fauna Assessment – 156-159 Jonson Street* prepared by Planit Consulting and dated 14/04/2021. All other native vegetation within the site is to be retained and protected.

118. **Protection of native fauna from disturbance**

- a. Any clearing of native vegetation and/or earthworks must not commence until the area proposed for clearing has been inspected for the presence of all fauna species using the site by a suitably qualified and experienced individual;
- b. Should fauna be present at the time of proposed clearing, relevant fauna spotter/catcher protocols must be followed to prevent injury to wildlife;
- c. Any injured wildlife must be taken to a local wildlife vet for treatment.
- d. Approval to proceed with the clearing of vegetation in accordance with this section is only valid for the day on which the inspection has been undertaken.
- e. The individual referred to in a above, or a nominated representative, must remain on site during any approved clearing of vegetation.

119. **Ecological restoration works**

Ecological restoration works must be undertaken and continued until the performance indicators have been achieved in accordance with the approved Vegetation Management Plan during which time annual monitoring reports must be submitted to Council for approval.

120. **Restrictions on external artificial lighting type and usage**

To minimize impacts on native wildlife, external artificial lighting must:

- a. Be installed as close as possible to the ground to minimize light spill and glow;
- b. Be directed only towards the buildings, carpark, access and loading areas;
- c. Be of the lowest intensity practicable;
- d. Be extinguished when facilities are not in use and no later than 10pm at night;
- e. Avoid the use of white LED (unless filtered*), metal halide (unless filtered*), white fluorescent, halogen or mercury vapour light types.

* 'Filtered' means white LED and metal halide lighting can be used only if a filter is applied to remove the short wavelength (i.e., wavelengths up to 500 nm) light.

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. 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 2000 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 advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.
To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

SCHEDULE 4. 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 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.

Occupation Certificate required:

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

Dewatering Licence

Groundworks will intersect the groundwater table and any dewatering will require a licence under the Water Act 1912. The development application submitted to Council was not nominated as 'Integrated development' and did not seek a dewatering licence, separate arrangements must be made with the Water NSW for obtaining such a licence

NSW Environmental Protection Authority

NSW Environmental Protection Authority advise that the applicant must contact Qld Department of Environment and Heritage Protection <https://www.ehp.qld.gov.au/> to obtain a consignment number for a Waste Transport Certificate which must be emailed to <https://www.hazardouswaste@epa.nsw.gov.au/>

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.

Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on: <http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

Work Health and Safety Act 2011 and Water Health and Safety Regulation 2017

Work Health and Safety Act 2011 and Water Health and Safety Regulation 2017 control the health and safety of the public. For information and facts sheets refer to <https://www.safework.nsw.gov.au/legal-obligations/legislation>

The NSW Public Health Act 2010 and Public Health Regulation 2012

The NSW Public Health Act 2010 and Public Health Regulation 2012 controls the public health risk associated with public spa and spa pools. For information and facts sheets refer to <https://www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx>

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).

Essential Energy makes the following general comments:

If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;

Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with; and

In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities.

SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

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 2018)**

Water	13.06 ET
Bulk Water	13.06 ET
Sewer	7.93 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate->

[the-cost-of-an-Equivalent-Tenement#section-3](#)).

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.