

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
DA11	B	Site Plan	U+I Building Studio	07/07/2022
DA20	B	Site Layout & Carparking (Annotated by Council)	Amitran Pty Ltd & U+I Building Studio	09/06/2022
DA30	C	Site Floor Plan	Amitran Pty Ltd & U+I Building Studio	07/07/2022
DA41	A	Gross Floor Area Schedule Ground Floor	Amitran Pty Ltd & U+I Building Studio	07/07/2022
DA42	A	Gross Floor Area Schedule First Floor	Amitran Pty Ltd & U+I Building Studio	07/07/2022
DA31	A	Building A Elevations & Sections	Amitran Pty Ltd & U+I Building Studio	11/11/2020
DA32	A	Building B Elevations & Sections	Amitran Pty Ltd & U+I Building Studio	11/11/2020
DA33	B	Building C Elevations & Sections	Amitran Pty Ltd & U+I Building Studio	07/07/2022
DA34	B	Roof Plan	Amitran Pty Ltd & U+I Building Studio	07/07/2022
DA35	A	Site Section & Street Elevations	Amitran Pty Ltd & U+I Building Studio	11/11/2020
DA51	A	Materials & Finishes	U+I Building Studio	16/11/2020
SK-03	C	Operational Control Plan	Floodworks	08/12/20
SK-04	C	Operational Control Plan Typical Section	Floodworks	08/12/20
File Ref: 4452R2 020112 4pdL10 Federal Drive Federal_D A	v3	Acoustic Report	Koikas Acoustics Pty Ltd, dated File Reference: _ v3	Wednesday 27 January 2021

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

2. **Payment of security deposits**

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

Security deposit	\$ 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. Environmental Heritage External Finishes and Signage Requirements

To protect the setting of nearby items of Environmental Heritage, the following is required:

a. External Finishes

The approved colours, materials and finishes are to be maintained as per the approval. Any future changes are subject to prior approval from Council.

b. Signage

Details of all signage are to be submitted to and approved by Council prior to erection. A suite of complementary signage is required which is sympathetic to the aesthetic setting of the heritage listed items opposite the site. Any illuminated signage may only be externally illuminated and subtle in its design (and is subject to further consent)

5. 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.

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

6. 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.

7. **Detailed landscaping plan required**

Prior to the issue of a Construction Certificate, a detailed landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 and Chapter D5 Section D5.2.7 Landscaping and Screening, Development Control Plan 2014. The detailed plan must:

- a. Ensure landscaping is located within the site only and not on the Road Reserve. Any planting around the boundary that will encroach into the road reserve will require separate approval by Council's infrastructure services and Place Planning team.
- b. Planting must be consistent with the Draft Federal Village Concept Plan or its equivalent most recent iteration of the Village Plan.
- c. Planting must not impact on sightlines of driveway crossovers or affect any essential services operation and maintenance.
- d. The landscaping plan must incorporate a landscaping maintenance plan including an annual program for care and maintenance of selected planting.

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.

8. **Amended Construction Certificate Plans**

Amended plans to be prepared and submitted with the construction Certificate for approval, which provide for a minimum 4.5 metre setback to the southern boundary, moving the entire scheme to the north to improve solar access to the adjacent dwelling to the south.

9. **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.

10. **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:

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

11. **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 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 Safework NSW requirements.

All external night time lighting should be motion activated only with daylight hour sensors, low wattage and designed to minimise light spill in accordance with AS4282-2019: Control of the obtrusive effects of outdoor lighting.

12. **Plans of retaining walls and drainage**

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

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

13. **Potable Water Supply Management Plan**

Prior to the issue of a Construction Certificate a NSW Health approved private water supply quality assurance plan must be provided to Council.

For further information refer to the following website

<http://www.health.nsw.gov.au/environment/water/Publications/private-water-supply-guidelines.pdf>

14. **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".

15. **On-site stormwater detention and Raingarden required**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed via an on-site stormwater detention/raingarden system by gravity in accordance with the approved plans SK-03 & SK-04 Rev C prepared by Floodworks dated 08/12/20.

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.

Note: Reduction in Detention volumes and Filter Areas of the raingarden in the approved plans will require lodgement of Section 4.55 application to Council for the amendment of the consent

16. **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:

Driveway (commercial areas)

Driveways (2 x driveways) in accordance with the approved plan and Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings". 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.

Concrete edge, road pavement and parallel parking lane

Concrete edge, road pavement and associated parallel parking and drainage and any necessary relocation of services as follows:

1. Concrete edge across the full frontage of the site in Federal Dr and flare at the corner of Coachwood Ct;
2. 9.1m road pavement in Federal Dr for the full frontage of the site consisting of 2.1m indented parallel parking lane measured from the edge of the approved driveway alignment and 7.0m wide carriageway.
3. Joining to existing pavement or widening in accordance with IPWEAQ drawing SEQ R-170.

1.5 m wide footpath

1.5m wide foot paving for the full frontage of the site at a crossfall of 1 % or 1:100 (maximum 2.5% or 1 in 40) with an alignment of 1.5m away from the back of the concrete edge strip commencing from the southern boundary of the site and to follow the extent of the concrete edge strip. Provision of a ramp pedestrian crossing located approximately in the middle of the frontage of the site in Federal Dr.

17. **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.

18. **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 **DA20 Rev B - annotated Site Layout & Carparking plan** dated 09/06/2022 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:

- a. pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- b. site conditions affecting the access;
- c. existing and design levels;
- d. longitudinal section from the road centreline to the car space(s);
- e. cross sections every 15 metres;
- f. drainage details;
- g. turning paths; and
- h. line marking and signage.

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".

19. **On-site sewage management facility Section 68 approval required**

An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council prior to issue of a Construction Certificate. Such approval must be issued after the date of this consent.

The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site specific design of sewage management in accordance with the

requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

The application must be supported with the following information, design components and drawings:

- a. Stormwater management plans that illustrate how stormwater will be isolated from the land application
- b. Separate treatment trains for grey and blackwater that achieves acceptable level of grey water treatment for onsite reuse for toilet flushing and landscaping.
- c. Certified & accredited nitrogen reduction equal to or greater than 53.7% & phosphorous reduction of 84.7%.
- d. Disinfection of grey and blackwater treatment trains.
- e. Liquid trade waste collection and storage system separate to grey and black water systems.
- f. Plumbing plans that illustrate the separate greywater.
- g. Plans that illustrate access for pump outs of all treatment systems and trade waste plumbing systems.
- h. A hydraulic design by a certified designer that demonstrates the even distribution of effluent over the entire land application area.
- i. A commissioning test in presence of council certifiers and environmental health officers using clean water to demonstrate the even distribution of effluent over the entire land application area.
- j. Details of the level that the hydraulic overflow sensor level is set at, and the emergency response plans when that alarm is triggered.
- k. A plan that demonstrates how the property owner, manager and tenants will be managed to ensure that inadvertent or even deliberate direction of trade waste to the wastewater system is avoided.

20. **Fibre-ready Facilities and Telecommunications Infrastructure**

Prior to the issue of the Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- a. the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- b. the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.
- c.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

21. **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.

22. **Site Waste Minimisation and Management Plan Details**

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. 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, including the following:

Demolition phase:

- a. How will the development manage stockpiles of crushed material such as roof tiles, concrete, plasterboard prior to reuse on site
- b. Plan states zero waste will be going to landfill can this be confirmed prior to construction certificate being issued
- c. Will skip bins be utilised during the demolition stage? If so what is the proposed location

Site operation and management:

- a. Request to review examples of the waste management requirements for contractors prior to construction
- b. How does development plan to prevent pollution and damage to the environment during demolition and construction phases, this is currently not demonstrated in current waste management plan.
- c. Require details on how waste will be stored on site ie skip bins, stockpiles

Construction phase:

- a. Waste generation table sets out the same waste types and demolition, require clarity on this ie concrete being ordered to set amount to reduce of ordering/waste. Timber ordered to length. Bricks and pavers were already cleaned and to be reused as part of the demolition stage why would this need to occur again as part of the construction stage.
- b. Highly unlikely that all material will be reused onsite, will require evidence of correct disposal at a licensed facility if and when materials go to landfill or to be recycled

Ongoing management phase:

- a. Require to see the waste bin storage areas for each unit to be shown on construction plans or the suggested bin bay, these storage areas need to be undercover, secure and have the capabilities to wash out bins with waste water going into sewer.
- b. Waste signage will require updating to be inline with Byron shire councils existing waste signage, this can be provided on request

A template is provided on Council's website to assist in providing this information.

23. **Long Service Levy to be paid**

In accordance with Section 4.68 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.

24. **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.

25. **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

26. **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.

27. **Traffic Management Plan**

The approved traffic management plan is to be implemented.

28. **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.

29. **Toilet facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

30. **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 and to ensure that the building is not higher than 9 metres measured by the vertical distance from ground level (existing) to the highest point of the building.

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

31. **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.

32. **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.

33. **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.

34. **Inspection for on-site sewage management**
All plumbing and drainage works is to be installed by a suitably qualified person. The plumber must adhere to the requirements of the NSW Code of Practice and AS/NZ 3500. The plumber is to arrange for the following inspections to be undertaken:
- Internal drainage prior to covering of the works.
 - External drainage prior to the covering of works.
 - A commissioning test in presence of council certifiers and environmental health officers using clean water to demonstrate the even distribution of effluent over the entire land application area
 - Final incusing composing test of the treatment systems and alarms
35. **Stormwater drainage work**
Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.
36. **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.
37. **Fill to be retained on the subject land**
Fill material must not encroach onto any adjoining land.
38. **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.**
39. **Removal of asbestos**
All asbestos wastes associated with removal of the existing building to be disposed of in accordance with the requirements of the Workcover Authority. The applicant/owner is to produce documentary evidence that this condition has been met.
- Please note the Byron Resource Recovery Centre can not accept asbestos. You will need to arrange disposal at an alternate landfill site.
40. **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.
41. **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.
42. **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.

43. **Muted bushland tones external finishes**

To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright colours are not permissible.

44. **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.

45. **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 \(2014\)](#)

46. **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](#).

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

47. **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.

48. **Access and parking areas to be completed**

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

49. **On-site Stormwater Detention/Raingarden – Certification of works**

All stormwater drainage works, including on-site stormwater detention works/raingarden, 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](#).

50. **Acoustic Fence**

Boundary fences between the subject site and residential lots should be 1.8 m high.

Boundary fences should utilise the following construction:

- a. Double lapped 15 mm thick timber fence palings offset so that there are no airgaps. This equates to a total barrier thickness of 30 mm; OR
- b. 15mm compressed fibre cement panels with no air gaps at the joins; OR
- c. 6mm compressed fibre cement panels either side of a 50mm steel frame with fibre-glass insulation batts (14kg/m;) to the cavity.

51. **On-site Sewage Management system must be completed**

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

52. **Approval to Operate required**

In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.

53. **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.

The following conditions are to be complied with at all times

54. **Approved Use**

The approved use is for Light industry excluding artisan food and drink premises and home industry.

In this development consent:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—

- (a) high technology industry,
- (b) creative industry.

Note—

Light industries are a type of **industry**—see the definition of that term in this Dictionary.

creative industry means a building or place the principal purpose of which is to produce or demonstrate arts, crafts, design or other creative products, and includes artists' studios, recording studios, and set design and production facilities.

Note—

Creative industries are a type of **light industry**—see the definition of that term in this Dictionary.

high technology industry means a building or place predominantly used to carry out an industrial activity that involves any of the following—

- (a) electronic or micro-electronic systems, goods or components,
- (b) information technology (such as computer software or hardware),
- (c) instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (e) film, television or multi-media technologies, including any post production systems, goods or components,
- (f) telecommunications systems, goods or components,
- (g) sustainable energy technologies,
- (h) any other goods, systems or components intended for use in a science or technology related field, and includes a data centre, but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.

Note—

High technology industries are a type of **light industry**—see the definition of that term in this Dictionary.

Food and drink premises including **artisan food and drink premises** are **NOT permitted** on this site.

55. **Change of Use requires separate development consent**

This development is designed to accommodate a limited range of light industrial uses including creative industry and high tech industry that can be serviced and managed on this site subject to full compliance with all conditions of consent.

Any change of use to the approved use requires a separate development application to be determined by Council.

Food and drink premises including **artisan food and drink premises** are **NOT permitted** on this site.

56. **No Residential Accommodation**

This development is not designed to accommodate residential accommodation, ancillary or otherwise.

No caretaker accommodation or any other type of dwellings are permitted within this development.

Note. **dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

57. **Mezzanines not to be let separately**

This development is designed to accommodate eight tenancies.

Mezzanine levels are not to be leased separately or sub-let.

58. **Landscaping to be maintained**

Landscaping is to be maintained to ensure it is in accordance with the approved detailed landscaping plan.

59. **Vehicles to enter/leave in a forward direction**

Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction. All driveways and turning areas must be kept clear of obstructions that prevent compliance with this condition.

60. **Loading, unloading and waste collection not to occur on the street**

The loading and unloading bay and waste collection areas must be available at all times for the loading and unloading of goods and waste collection for the development. All loading and unloading is to take place within the curtilage of the premises. All waste collection is to be undertaken on site in accordance with the approved waste management plan.

61. **Rain Water Supply**

All rain water supply tanks are required to divert water from the first rainfall using a first flush or bypass device. All rainwater storage tanks must divert overflow away from the onsite sewage management system.

62. **Trade Waste**

All trade waste pre-treatment devices shall be serviced and maintained to ensure that all relevant environment protection standards and council conditions are satisfied.

63. **Food Businesses and Noisy Business activities not permitted**

The development is not approved to allow food business to operate at the property without prior council development approval.

Development application for businesses that includes noise and odour emissions must be accompanied with odour and or acoustic reports by qualified acoustical and or odour consultants.

64. **Noise**

Noise from equipment including onsite sewage management systems hot water heaters exhaust fans and tools used within the development is not to be audible in the habitable room of neighbouring properties.

Air conditioners are not permissible in this development.

A customer complaint response plan must be publicly available on the internet and building line and must include afterhours contact numbers for neighbours to use.

Noise-generating activities other than those identified in the Acoustic report, prepared by Koikas Acoustics Pty Ltd, dated Wednesday, 27 January 2021 File Reference: 4452R20201124pdL10FederalDriveFederal_DA_v3, may be considered for the development but must be verified by a qualified acoustical consultant and subsequent council approval may be considered for the development but must be verified by a qualified acoustical consultant and subsequent council approval.

65. **Light**
No lighting after sunset except motion activated security lighting designed with low spill in accordance with the approved lighting plan.
66. **Operating Hours**
Operational hours are limited to
- Monday to Friday 8am to 6pm
 - Saturday and Sunday and Public Holidays 9am to 4pm.
- Delivery and collection services are to occur within Monday to Friday 9am and 5pm.
67. **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.
68. **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. Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
 - c. All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
 - d. All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
 - e. Goods deliveries shall be restricted to daytime operating hours.

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.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Clause 5.10 of Local Environmental Plan 2014.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Development Control Plan 2014.

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.

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>

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

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 general comments:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. Prior to any demolition works commencing, any service line/s to the property must be disconnected.
4. The plans indicate that existing powerlines and power pole/s will be re-located. The Applicant must make contact with Essential Energy's Contestable Works team for requirements via email contestableworks@essentialenergy.com.au.
5. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the development in accordance with industry standards.
6. Any proposed driveway access and/or exit (concrete crossovers) must remain at least 1.0 metre away from any electricity infrastructure (power pole) at all times, to prevent accidental damage.
7. Essential Energy's records indicate there is an existing low voltage underground powerline and service pit located on the boundary of this property and the adjoining Lot 2 DP1168843. Prior to carrying out any works in this area, 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) to locate this underground powerline. Any proposed tree planting or landscaping in this area must comply with the latest industry guideline

currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

8. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity of the property. Any activities within these locations must be undertaken in accordance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
9. 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.