

CONDITIONS OF CONSENT:

SCHEDULE 1 CONDITIONS OF CONSENT

Parameters of consent

1. **Development is to be in accordance with approved plans**

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
1 of 4	Site/Drainage Plan	David Robinson	September 2018
2 of 4	Proposed layout Floor Plans	David Robinson	September 2018
3 of 4	Proposed Layout Elevations	David Robinson	September 2018
4 of 4	Proposed Layout Elec Plans & BASIX	David Robinson	September 2018

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **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.

3. **Development Contributions**

Council resolved not to charge Section 94 contributions for secondary dwellings under SEPP (Affordable Rental Housing Policy) 2009 subject to the following requirements:

- a. That the maximum size of the secondary dwelling or granny flat does not exceed 60sqm.
- b. That the floor space ratio for the whole development of the site does not extend beyond the 0.5:1 and that 25% of the site must be covered by absorbent surfaces such as lawn or landscaping.
- c. That the secondary dwelling or granny flat does not increase the overall number of bedrooms on the site to greater than 5.
- d. That the applicant has applied for a secondary dwelling or granny flat and specifically advised that the development is not to be used for tourism purposes and accepts a condition of consent to the same effect.

Section 94 Contributions have not been charged on this application based on the above criteria. Should any of the above requirements change your development may be referred to Council's Compliance Department for further action.

4. **Bush fire safety measures**

This land is identified as being designated bush fire prone land and under section 4.14 of the Act, 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 2006". The development is approved subject to the development being constructed in accordance with the BAL 12.5 section 5 of AS3959-2009 general requirements document prepared by Barry Eadie Consulting Pty Ltd

5. **Protection of Existing Street Trees**

No existing nature strip street tree shall be disturbed or damaged during earthworks or construction associated with this consent without Council agreement and consent. The protection methods for such trees during all works approved by this development consent shall be installed in accordance with AS 4970-2009 Protection of Trees on Development Sites.

6. **Root Barrier Protection**

A root barrier shall be installed between the fig tree on the public nature strip and the proposed secondary dwelling. The root barrier shall be designed, and installation overseen, by a Level 5 Arborist.

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

7. **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.

8. **Arborists Report**

A report by a Level 5 Arborist outlining the proposed root barrier location and design shall be submitted and approved by Council prior to issue of a Construction Certificate.

9. **Water and Sewerage – Section 68 approval required**

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

10. **Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. Cert no. , dated Date

The commitments indicated in the Certificate are to be indicated on the plans

submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the energy efficiency measures may be undertaken without the issue of any amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed colours must be consistent with the provisions of Section D2.2.3 of Council's Development Control Plan 2014. White colours are not permissible.

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

11. Building materials and colours to be specified

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 – Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of white and near white colours is not permissible

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

12. Long Service Levy to be paid

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at www.longservice.nsw.gov.au or at Council's Administration Office, Station Street, Mullumbimby. When paying to Council, cheques are to be made payable to 'Byron Shire Council'.

For further information regarding the Long Service Payment please refer to the website above.

13. 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.

14. Tree Removal

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

15. Compliance required with Building Over Pipelines Policy

All developments must comply with Policy 4.20. Swimming pools are classed as buildings and are required to comply with this policy.

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

Any 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.

16. **Water and Sewerage - Section 68 Part B approval required**

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

Each Torrens title lot of land shall have an individual service tapped from the main and extending 300mm inside the lot boundary. Each dwelling/unit/shop capable of being subdivided under the Strata or Community Title Schemes shall have a separate water meter

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

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

17. **Erosion and Sediment measures**

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A copy may be downloaded from Council's web site at http://www.byron.nsw.gov.au/pdfs/stormwater/sediment_erosion.pdf. Particular attention is to be given to the provision of the following sediment and erosion control measures:

- a. Temporary driveway from the edge of road to the building site;
- b. Temporary downpipes immediately installed after the roof has been erected;
- c. Silt fence or sediment barrier.

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

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).

18. **Erosion and sediment measures**

Where erosion of soils or runoff of any substance is likely to occur, erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. This may include stockpiled materials such as sand, etc.

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).

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

19. **Construction times**

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

20. **Construction Noise**

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

21. **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.

22. **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.

23. **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.

24. **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.
25. **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 DECC Waste Classification Guidelines (2008)
www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf

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

26. **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.
27. **Stormwater disposal**
Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:
- Clear of buildings and infrastructure
 - Not concentrated so as to cause soil erosion
 - Not onto adjoining land.

The following conditions are to be complied with at all times

28. **No subdivision**
In accordance with clause 24 of the State Environmental Planning Policy (Affordable Rental Housing) 2009, subdivision of the subject land is not to occur.
29. **Use of dwelling houses**
The dwelling houses are not to be holiday let or used as tourist and visitor accommodation.
30. **Relationship to Principal Dwelling**
The secondary dwelling must remain on the same lot as the principal dwelling.
31. **No more than the principal dwelling and secondary dwelling**
There must not be any dwelling on the land other than the principal dwelling and the

secondary dwelling.

SCHEDULE 2 PRESCRIBED CONDITIONS

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

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3 NOTES

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.

Penalties apply for failure to comply with development consents

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

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.

Secondary dwellings

Approval of your Secondary Dwelling will be included in a register to provide accountability of the uptake of this affordable housing approach and to assist in any compliance action that may need to be taken in the circumstance that the dwellings are being used for tourism purposes rather than meeting the need for affordable housing (*Council Resolution No. 11-268*).

STATEMENT OF REASONS

Statement of Reasons

DA	The proposed development complies with the provisions of Byron Local Environmental Plan 1988.
DA	The proposed development complies with relevant State Environmental Planning Policies
DA	The proposed development complies with relevant provisions of Development Control Plan 2010
DA	The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
DA	The proposed development complies with the Coastal Zone Management Plan.
DA	The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
DA	The proposed development is considered suitable for the proposed site.
DA	The development application was notified/advertised in accordance with Development Control Plan 2014. Issues raised in the submissions have been addressed during assessment of the application.
DA	The proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed

3	<p>The DA was advertised in accordance with Development Control Plan 2010. The submissions received were considered on merit and addressed during assessment of the application.</p> <p>To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.</p>
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