

CONDITIONS OF CONSENT:

SCHEDULE 1 DEFERRED COMMENCEMENT CONDITION PURSUANT TO SECTION 4.16(3)

The following condition concerns matters as to which the Council must be satisfied before the consent can be issued:

Deferred Commencement Consent

This consent does not operate until Council is satisfied as to the following matter:

1) Establishment of Easement inside Lot 2 DP1004049

This consent does not operate until Council is satisfied that the creation of a drainage easement inside Lot 2 DP1004049 is completed.

To satisfy Council of the above, the following is to be submitted for approval, which addresses the following matters:

- a) A Section 88B Instrument and one (1) copy the new survey plan are to be submitted for the creation of a drainage easement inside Lot 2 DP1004049.
- b) The drainage easement shall facilitate the establishment of the lawful point of discharge benefitting Lot 3 Sec5 DP6834 and burdening Lot 2 DP1004049.
- c) The drainage easement shall be a minimum of 3.0m wide or the width of the calculated Q_{100} overland flow path whichever is greater.

NOTE: The plans must be in compliance with Chapter B3 of Council's DCP 2014 and Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

In satisfying Council as to the above Council must be furnished with a signed copy of the 88B instrument and final survey plan.

Evidence of compliance with the above condition(s), sufficient to satisfy the Council as to those matters, must be provided within 12 months of this notice. If satisfactory evidence is produced in accordance with this requirement, the Council will give notice to the applicant of the date from which the consent operates.

If Council has not notified the applicant within a period of 28 days after the applicant's evidence is produced to it, the Council is, for the purposes only of Section 97 of the Environmental Planning and Assessment Act 1979, taken to have notified the applicant that Council is not satisfied as to those matters on the date on which that 28 day period expires.

SCHEDULE 2 CONDITIONS OF CONSENT

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

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:
230/DD/01 Rev F	Site/Landscaping Plan (as amended by Lucena Engineers Mark-ups –	Space Studio Pty Ltd	23.09.20

	Stormwater Drainage Plan)		
230/DD/02 Rev E	Ground Floor Plan	Space Studio Pty Ltd	25.09.20
230/DD/03 Rev D	First Floor Plan	Space Studio Pty Ltd	25.09.20
230/DD/04 Rev C	Elevations	Space Studio Pty Ltd	25.09.20
230/DD/05 Rev C	Elevations	Space Studio Pty Ltd	25.09.20
-	Acid Sulfate Soils Management Plan (Council Doc# E2021/68500)	OB Geotechnics	15 March 2020

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. **Coastal Erosion**

The development must cease if at any time the coastal erosion escarpment comes within 50 metres of any building associated with this development. The buildings and works used in connection with the development must be removed immediately to an approved location by the owner of the land. The owner must return the landform of the subject land to the predevelopment state and suitably revegetate the land.

In this condition coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Note: at the end of a storm the escarpment may be nearly vertical; as it dries out, the escarpment slumps to a typical slope of 1 vertical to 1.5 horizontal.

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 3** of this consent.

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

5. **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 landslip or subsidence either above or below the works; and
- c. adequate drainage has been provided.

6. **Access and facilities for disability**

The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with 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.

7. **Plans to show one commercial tenancy unit and one recreation facility tenancy unit**

The application for a Construction Certificate is to include plans that show one commercial tenancy with a gross floor area of 169m² and one recreation facility tenancy with a gross floor area of 111m². The remaining spaces including verandas, disabled access and toilet facilities are to be for use by all tenants and patrons.

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

8. **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".

9. **On-site stormwater detention 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 system by gravity to the existing pipe and pit system in front of the development site as nominated in the approved stormwater drainage plan.

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

The following must be considered and be included in the detailed design of the stormwater management plan:-

- a) Provide a Level IV inter-allotment drainage system in accordance with QUDM around the perimeter of the site;
- b) Interallotment drainage system along the side and rear must be provided with a swale drain with concrete invert 300mm wide x 200mm deep and grade the swale drain towards the southwestern corner of the site;
- c) Provide a positive relief outlet into the neighbouring lot to ensure major overland flow is able to drain towards the creek;
- d) Level IV inter-allotment drainage system must be designed to cater for the minor stormwater event; and

- e) Engineering calculations and plans must be provided to support the proposal.

The following must be considered and be included in the detailed design of the overland flow path inside Lot 2 DP1004049:-

- a) Fully detailed engineering plans to allow the major overland drainage system to drain into Marshalls Creek;
- b) Provide Q_{100} catchment analysis;
- c) Provide Q_{100} stormwater calculations; and
- d) Detailed site survey to show
 - Existing and proposed site levels;
 - Contours;
 - Vegetation;
 - all drainage lines; and
 - future buildings.

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

10. **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)

A driveway in accordance with 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.

The proposed driveway must be widened towards the west of the existing proposal to provide a minimum 6.6m width. The 6.6m width must be maintained up to the development setback to accommodate the manoeuvring movement of an SRV service vehicle into the service bay area.

The existing driveway must be removed and replaced the disturbed area to match the existing kerb and gutter, footpath, signage and verge area.

11. **Traffic Control Plan**

Consent from Council must be obtained for a Traffic Control Plan 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. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The plan shall 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 traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

12. **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:

- a) Finish carparking level to be no greater than 1.97m AHD;
- b) 5 x bicycle spaces;
- c) 13 x User Class 1;
- d) 1 x User Class 4;
- e) 1 x Loading bay 3.5m wide x 6.5m long x 6.6m aisle width;
- f) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- g) site conditions affecting the access;
- h) existing and design levels;
- i) longitudinal section from the road centreline to the car space(s);
- j) cross sections every 15 metres;
- k) drainage details;
- l) turning paths; and
- m) 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".

13. **Flood Planning Level**

The flood planning level for this development is 3.59m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at, or up to 0.3m above, the flood planning level unless a greater floor level has been shown on the plans approved by the development consent.

The plans and specifications to accompany the construction certificate application are to also indicate:

- a) a minimum floor level of 1.97m A.H.D for non-habitable areas; and
- b) 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.

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

14. **Bond required to guarantee against damage to public land**

A bond of \$10,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repaired to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

15. **S.88E Public Positive Covenant to be placed on title – Coastal erosion**

Documentary evidence is to be provided to the Principal Certifying Authority that a public positive covenant, pursuant to the provisions of S.88E of the Conveyancing Act, 1919, has been placed on the title to the land, the subject of this consent, stating:

The development granted via development consent number 10.2020.142.1 must cease if at any time the coastal erosion escarpment comes within 50 metres of the building subject of the consent. The development the subject of this consent must be demolished and removed immediately. Further the landowner must suitably revegetate the land.

In this covenant coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Please note: Documents requiring the endorsement of Council associated with the creation or cancellation of easements, restrictions, covenants are subject to fees listed within Council's Fees & Charges.

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

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.

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

Note: 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

18. Section 7.12 Levy to be paid

Prior to the issue of a subdivision certificate the section 7.12 levy required by the Byron Developer Contributions Plan 2012 must be paid to Council. The levy will be calculated as follows:

Levy payable = %C x \$C

Where:

- %C is the levy rate applicable as set out in the latest Ministerial Direction issued under section 94E.
- \$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 and must be set out in Schedule 2. A copy of completed schedule 2 must be submitted with the payment to Council. It can be downloaded from Council's website.

19. 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.

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

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

21. **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.

22. **Insect screening required**
The application for a Construction Certificate is to include plans and specifications that provide effective insect screening to all windows, doors and other openings to all parts of the development used for habitable purposes.

Such plans are to be approved as part of the Construction Certificate.

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

23. **Acid Sulfate Soils Management**
Any measures needed for the management of Acid Sulfate Soils identified in Acid Sulfate Soils Management Plan (Council Doc# E2021/68500), prepared by OB Geotechnics, dated 15 March 2020 must be undertaken in accordance with the Acid Sulfate Soil Manual (NSW ASSMAC 1998).

24. **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.

25. **Plumbing Permit**
In accordance with the Local Government Act and the NSW Code of Practice for Plumbing and Drainage your Plumber must obtain a Plumbing Permit at least two (2) working days prior to commencing work. Please forward this to your plumber to complete and to return to Council prior to commencement of work. All work is to be completed by a suitably qualified person licensed for the purpose by the NSW Department of Fair Trading. If the property is to be connected to council water mains, no internal sewer inspections shall take place until a water meter is installed. Drawing off of the council water main without a meter will result in a

fine and possibly a stop works notice.

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. **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.

28. **Plumbing, Water supply and Sewerage works**

The licensee is to provide 24 hours notice and attend the site for the following inspections, prior to covering of work. Inspections will be carried out a mutually convenient time for any works that fall under the following descriptions for inspections. (If there are no applicable works, for example, a new water supply with no sewer services, then an inspection for "external drainage" will not be required)

Typical inspections that must be booked in include but are not limited to the following:

- a) Structures (dwellings, sheds, studios etc up to the connection point of the Onsite Sewer Management System) -
 - Internal Drainage External Drainage
 - Sewer connection to the OSMS
 - Water Rough In (including any in ground water supply lines from water tanks or other buildings);
 - Stack work/elevated drainage;
 - Final- all work completed.

29. **Works as Executed (WAE) diagrams and Sewer Services Diagrams (SSD)**

Due to NSW Fair Trading Requirements a licensee is required to provide to Council and owner of the property a Compliance Certificate and Sewer Services Diagram (SSD) and Works as Executed (WAE) prior to booking a final inspection.

30. **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.

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

31. **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.

32. 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.

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. 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.

35. 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 \(2008\)](#).

36. Aboriginal Relics

If any Aboriginal archaeological relics or items are exposed during construction works, the Applicant shall:

- a. immediately cease works;
- b. notify the NSW National Parks and Wildlife Service (NPWS);
- c. obtain any necessary permits and/or approvals to continue the work under the National Parks and Wildlife Act 1974.

The Applicant shall comply with any further request made by the NPWS to cease work for the purposes of archaeological assessment and recording.

37. 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.

38. **Stormwater drainage work**
Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.
39. **Acid Sulfate Soils Management**
Works to be undertaken in accordance with Acid Sulfate Soils Management Plan (Council Doc# E2021/68500), prepared by OB Geotechnics, dated 15 March 2020 and with the Acid Sulfate Soil Manual (NSW ASSMAC 1998).
40. **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.

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

41. **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 Council's road/footpath reserve.
42. **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.
43. **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.
44. **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.
45. **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.
46. **On-site Stormwater Detention – Certification of works**
All stormwater drainage works, including on-site stormwater detention works, 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.

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

47. **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, smell, smoke, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy. All sources of noise and vibration must be effectively managed so as not to be intrusive or 'offensive' within the nearest residential properties.
- 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 trade waste pre-treatment devices and other waste storage 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.

48. **Approved use**

Byron LEP 1988 definitions (current at date of approval) apply to the development:

commercial premises means a building or place used as an office or for other business or commercial purposes, but (in the table to clause 9) does not include a building or place used for a purpose elsewhere specifically defined in this Dictionary.

recreation facility means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation and whether used for the purpose of gain or not, but (in the table to clause 9) does not include a place of assembly.

The approval is for **one** commercial premises with a gross floor area of 169m² and **one** recreation facility with a gross floor area of 111m². The remaining spaces including verandas, disabled access and toilet facilities are to be for use by all tenants and patrons.

One combined commercial tenancy only is approved.

The **commercial tenancy is restricted to no more than six (6) staff** on site at any one time.

Office type activities only are permitted in the commercial premises in keeping with the existing use rights applicable to this development. No activities other than those defined as commercial premises under Byron LEP 1988 are permitted in the commercial part of the building. Activities that incur additional loading on water and sewer are expressly prohibited.

49. **No Subdivision**

The building is not to be Strata Subdivided.

50. **Restricted hours of operation**

The use must operate into the future in an orderly and neighbourly manner and not cause

unreasonable impacts on the amenity of adjoining properties.

The hours of operation are restricted to:

Any alteration to the above hours of operation will require the further consent of Council.

51. 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.

52. Loading and unloading not to occur on the street

The loading and unloading bay must be available at all times for the loading and unloading of goods for the development. All loading and unloading is to take place within the curtilage of the premises.

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 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).

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	1.80 ET
Bulk Water	1.80 ET
Sewer	0.78 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.