



**Land and Environment
Court**
of New South Wales

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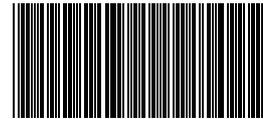
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D00019BRVX

31 March 2020

NOTICE OF ORDERS MADE

Case number 2019/00153305
Case title Lismore Venture Pty Ltd v Byron Shire Council

On 31 March 2020 the following orders (and/or directions) were made:

The Court orders that:

(1) The Applicant is granted leave to amend Development Application No. 10.2018.161.1 and to rely on the following amended plans and documents: (see attached "Attachment 1" for Table to Order (1))

(2) The Applicant is to pay the Respondent's costs pursuant to section 8.15(3) of the Environmental Planning and Assessment Act 1979 in the agreed amount of \$10,000.00 within 14 days of the date of these orders.

(3) The appeal is upheld.

(4) Development Application No. 10.2018.161.1 for the construction of a multi dwelling housing development containing 15 dwellings and a total of 14 on-site car parking spaces, comprising 2 x 3 bedroom dwellings and 4 x 2 bedroom dwellings with 1 car parking space each, 4 x 1 bedroom dwellings and 5 x 1 bedroom studio apartments, at-grade parking containing 8 car parking spaces (including 3 shared spaces), 4 motorcycle parking spaces and 10 bicycle parking spaces and associated landscaping works, with Studio 5 and Row Houses 1, 2 & 3 to be used only for the purposes of 'affordable housing', on the land at 23 Lismore Road, Bangalow is approved subject to the conditions of consent at Annexure "A".

For the Registrar

Attachment 1

Lismore Venture Pty Ltd v Byron Shire Council

Table to Order (1)

DWG NO.	DESCRIPTION	PREPARED BY	REV	DATE
D-S-01	Site Plan	The Kollektive	C	21/02/2020
D-P-01	Lower Floor Plan	The Kollektive	C	21/02/2020
D-P-02	Upper Floor Plan	The Kollektive	C	21/02/2020
D-P-03	Solar Access Plan	The Kollektive	B	10/12/2019
D-P-04	Roof Plan	The Kollektive	B	10/12/2019
D-E-01	Elevations 1	The Kollektive	C	21/02/2020
D-E-02	Elevations 2	The Kollektive	C	21/02/2020
D-E-03	Site Sections and External Finishes	The Kollektive	B	10/12/2019
D-E-05	South Perspective View	The Kollektive	B	10/12/2019
D-E-06	Perspective View Terraces and Driveway / North Elevation – Terraces	The Kollektive	B	10/12/2019
D-D-01	Detailed Plan – Typical Studio	The Kollektive	B	10/12/2019
D-D-02	Detailed Plan – Typical Row House	The Kollektive	B	10/12/2019
D-D-03	Detailed Plan – Row House – AS4299 Adaptable	The Kollektive	B	10/12/2019
D-D-04	Detailed Plan – Terraces Lower <T1-T3>	The Kollektive	B	10/12/2019
D-D-05	Detailed Plan – Terraces Upper <T1-T3>	The Kollektive	B	10/12/2019
D-S-03	Site Plan – Landscaped Area	The Kollektive	B	10/12/2019
D-S-05	Shadow Diagram 3pm	The Kollektive	B	10/12/2019
D-S-05A	Shadow Diagram 9am	The Kollektive	B	10/12/2019
D-S-05B	Shadow Diagram 12 Noon	The Kollektive	B	10/12/2019
D-S-05D	Shadow Diagram 10am	The Kollektive	B	10/12/2019
D-S-08	Stormwater Concept Plan	The Kollektive	A	17/09/2019
DOCUMENT DESCRIPTION		PREPARED BY	DATED	
Assessment of stormwater requirements for proposed development at 23 Lismore Road, Bangalow		Lucena Civil & Structural Engineers	15/07/2019	

Annexure A
Lismore Venture Pty Ltd v Byron Shire Council

Conditions of Consent
 23 Lismore Road, Bangalow

DA 10.2019.161.1

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 the plans prepared by The Kollektive listed below:

Plan No.	Description	Dated:
D-S-01 Rev C	Site Plan	21.02.2020
D-P-01 Rev C	Lower Floor Plan	21.02.2020
D-P-02 Rev C	Upper Floor Plan	21.02.2020
D-P-04 Rev B	Roof Plan	10.12.2019
D-E-01 Rev C	Elevations 1	21.02.2020
D-E-02 Rev C	Elevations 2	21.02.2020
D-E-03 Rev B	Site Sections and External Finishes	10.12.2019
D-D-01 Rev B	Detailed Plan – Typical Studio	10.12.2019
D-D-02 Rev B	Detailed Plan – Typical Row House	10.12.2019
D-D-03 Rev B	Detailed Plan – Row House – AS4299 Adaptable	10.12.2019
D-D-04 Rev B	Detailed Plan – Terraces Lower <T1-T3>	10.12.2019
D-D-05 Rev B	Detailed Plan – Terraces Upper <T1-T3>	10.12.2019
D-S-03 Rev B	Site Plan – Landscaped Area	10.12.2019

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. Approved Use

Use of this development is approved for multi dwelling housing. Any activity other than that defined as multi dwelling housing must not be carried out unless development consent has been granted.

Nothing within this development consent permits the development to be used as short-term rental accommodation, tourist and visitor accommodation or to be holiday let.

3. **Provision of Affordable Housing**

From the date of the issue of an Occupation Certificate for the subject development, Studio 5 and Row Houses 1, 2 & 3 are to be used only for the purposes of 'affordable housing' (as defined in the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy [Affordable Rental Housing] 2009*), and these dwellings are to be managed for a period of at least 10 years by a registered community housing provider (*registered community housing provider* has the same meaning as in the *Housing Act 2001*).

4. **Common antennae**

Where buildings contain multiple units, shared television antennae/satellite dishes are to be provided to reduce the visual impact of multiple services.

5. **Developer Contributions to be paid – affordable units**

Contributions set out in the schedule below are to be paid to Council if the units used as affordable housing cease to be used for that purpose.

Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended).

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

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

PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.

Section 7.11 Contributions Schedule for DA10.2019.161.1						
Affordable Units						
Bangalow Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =		4	@	0.55 SDU	=	2.2
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		0	@	1 SDU	=	0
Number of allotments =		0	@	1	=	0
Less Site Credits =		0	@		=	0
Total SDU					=	2.2
Schedule valid until		29/01/2020		<u>After this date contact Council for CPI update.</u>		

Local Open Space & Recreation	(OS-BG)	2.20	SDU @	\$3,900.19	=	\$8,580.42
LGA Wide Open Space & Recreation	(OS-SW)	2.20	SDU @	\$760.01	=	\$1,672.02
LGA wide Community Facilities	(CF-SW)	2.20	SDU @	\$1,113.12	=	\$2,448.86
Local Community Facilities	(CF-BG)	2.20	SDU @	\$353.10	=	\$776.82
Bikeways & Footpaths	(CW-BG)	2.20	SDU @	\$941.44	=	\$2,071.17
Shire Wide Bikeways & Footpaths	(CW-SW)	2.20	SDU @	\$81.65	=	\$179.63
Urban Roads	(R-BG)	2.20	SDU @	\$1,619.44	=	\$3,562.77
LGA Wide Roads	(R-SW)	2.20	SDU @	\$229.98	=	\$505.96
Rural Roads	#N/A		SDU @	-	=	-
Administration Levy	(OF-SW)	2.20	SDU @	\$1,149.58	=	\$2,529.08
Total					=	\$22,326.73

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

6. Developer Contributions to be paid – remaining units

Contributions set out in the schedule below are to be paid to Council prior to the release of a Construction Certificate.

Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). Contributions may be paid on a proportional basis based on the number of dwellings to be released in a construction certificate.

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

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

PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.

Section 94 contributions Schedule for 10.2019.161.1
Bangalow Catchment
This schedule was calculated in spreadsheet #E2015/28112

1 bedroom units =		5	@	0.55 SDU	=	2.75
2 bedroom units =		4	@	0.75 SDU	=	3
3 bedroom units/dwellings =		2	@	1 SDU	=	2
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	6.75
Schedule valid until		24/04/2020	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BG)	6.75	SDU @	\$3,920.28	=	\$26,461.89
LGA Wide Open Space & Recreation	(OS-SW)	6.75	SDU @	\$763.92	=	\$5,156.46
LGA wide Community Facilities	(CF-SW)	6.75	SDU @	\$1,118.85	=	\$7,552.24
Local Community Facilities	(CF-BG)	6.75	SDU @	\$354.92	=	\$2,395.71
Bikeways & Footpaths	(CW-BG)	6.75	SDU @	\$946.29	=	\$6,387.46
Shire Wide Bikeways & Footpaths	(CW-SW)	6.75	SDU @	\$82.07	=	\$553.97
Urban Roads	(R-BG)	6.75	SDU @	\$1,627.78	=	\$10,987.52
LGA Wide Roads	(R-SW)	6.75	SDU @	\$231.16	=	\$1,560.33
Rural Roads	#N/A	6.75	SDU @	\$-	=	\$-
Administration Levy	(OF-SW)	6.75	SDU @	\$ 1,155.50	=	\$7,799.63
Total					=	\$68,855.21

7. **Easement required over pipelines**

An easement shall be provided for the sewer main that runs under the proposed driveway, as per Clause 3.4 of the Policy 4.20.

Pursuant to Section 88B of the Conveyancing Act, 1919 an Instrument shall be prepared for each lot with creation of the easement.

The developer shall submit, to Council, the proposed easement drawings with dimensions to ensure compliance with Policy.

8. 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.

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.

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

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.

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.

10. Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

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

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

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

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

Payment by Personal or Company Cheque will not be Accepted

11. 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 and submitted prior to the issue of a Construction Certificate.

12. Geotechnical Report required – Engineering Works

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate, 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.

13. 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.

14. 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, generally in accordance with LUCENA Civil & Structural Engineers Stormwater Report V2 dated 15/7/19.

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.

15. Consent required for works within the road reserve

Consent 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.

A Works Authorisation Deed Agreement (WAD) from RMS is required for the design & construction of roadworks within Lismore Road; i.e. the state classified road.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveway	Driveway in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".
Basic Right Turn Treatment (BAR)	Road pavement, line marking and associated drainage construction, including any necessary relocation of services, to provide a BAR treatment in accordance with AUSTRROADS (unless lesser requirement specified by RMS).
Traffic Management Plan for works associated with construction of the development, including the site preparation / regrading	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 traffic management 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 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 traffic management plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

16. 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) 14 car parking spaces, consisting of:
 - 1 x adaptable parking space in accordance with AS2890.6:2009;
 - 6 x internal garages for units T1 to T6; and
 - 7 x parking spaces in accordance with User Class 1A & C₂ = 4.8m (Figure 2.2) and associated wheel stops (clause 2.4.5.4) of AS2890.1:2004.
- (b) 4 motorcycle parking spaces;
- (c) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- (d) site conditions affecting the access;
- (e) common area for the aisle and footpath of minimum 6.0m (see note);

- (f) existing and design levels;
- (g) longitudinal section from the road centreline to the car space(s);
- (h) cross sections every 30 metres;
- (i) drainage details;
- (j) turning paths associated with the Council's 9.64m length waste collection vehicle turning area (refer to Byron Development Control Plan 2014 – Chapter B8 – Waste Minimisation and Management – Appendix B8.5 Garbage Truck Dimensions for Residential Waste Collection); and
- (k) 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".

The footpath area must not be delineated or line marked within the common area unless a minimum 6.8m width is provided (aisle width of 5.8m + proposed footpath width of 1.0m).

17. **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.

NOTE: real estate development project has the meanings given in section 372Q of the Telecommunications Act.

18. **Noise Management Plan - Construction**

A Noise Management Plan must be submitted to the Principal Certifying Authority for approval prior to the issue of the construction certificate for building works. The Noise Management Plan must be prepared by a suitably qualified acoustic practitioner and detail the methods that will be implemented for the whole project to minimise construction noise. Information should include:

- (a) identification of nearby residences and other sensitive land uses;
- (b) assessment of expected noise impacts;
- (c) detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts;
- (d) strategies to promptly deal with and address noise complaints;

- (e) details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment);
- (f) procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts;
- (g) reference to relevant consent conditions; and
- (h) name and qualifications of person who prepared the report.

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

19. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 990109M_02, dated 22 January 2020.

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.

20. 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 generally be 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.

21. Detailed landscaping plan required

The application for a Construction certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014.

Species identified in Chapter B9 of Development Control Plan 2014 are to be planted where possible. The landscaping plan must indicate:

- (a) proposed location for planted shrubs and trees
- (b) botanical name of shrubs and trees to be planted
- (c) mature height of trees to be planted
- (d) location of grassed and paved areas, and

(e) location of trees identified for retention in the development application plans.

The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

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

22. 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.

23. 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.

24. Unexpected Findings Protocol - Contamination & Remediation

An Unexpected Findings Protocol (UFP) shall be prepared and submitted to Council for approval prior to the issue of Construction Certificate. The UFP shall be prepared by a suitable qualified person experienced in matters relating to Contamination of Land and Remediation.

25. Garbage storage area to be provided

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

Adequate ventilation, lighting, fire response and access to be provided to ensure safe and healthy conditions can be maintained for the protection of workplace health and safety.

Provision to be made for waste collection vehicle movement and lifting height requirements for all types of waste storage bins.

Such plans and specifications must be approved prior to the issuing of the Construction Certificate.

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

26. 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 in place prior to any building or construction works commencing and maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

27. Water service and meter to be connected

Prior to any building or construction works commencing, a water service and water meter must be connected to the property using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

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

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

28. 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.

29. 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.

30. 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.

31. Unexpected Findings Protocol - Contamination & Remediation

All site works must be undertaken in accordance with the approved Unexpected Findings Protocol (UFP).

32. Stormwater drainage work

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

33. Signs to be erected on building and demolition sites

Prior to any building or construction works commencing, and for the duration of construction, 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. **Fill to be retained on the subject land**
Fill material must not encroach onto any adjoining land.
36. **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.
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.

The following conditions are to be complied with prior to issue of an Occupation Certificate

38. **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 and 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.
39. **Section 88E Instrument**
A restriction must be registered, before the date of the issue of the Occupation Certificate, against the title of the property, in accordance with section 88E of the Conveyancing Act 1919, to ensure that the requirements of Condition 3 are met.
40. **On-site Stormwater Detention – Certification of works**
All stormwater drainage works, including on-site stormwater detention works, for the development shall 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.
41. **Stormwater disposal**
Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- (a) Clear of buildings and infrastructure,
- (b) Clear of effluent disposal areas,
- (c) Not concentrated so as to cause soil erosion, and
- (d) Not directly to a watercourse.

The following conditions are to be complied with at all times

42. Stormwater Maintenance

The stormwater collection and treatment devices must be inspected and maintained in accordance with the maintenance program contained in the approved Integrated Water Cycle and Soil Management Plan.

43. No interference with amenity

The use of the premises shall 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 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, fuel deliveries and waste collection shall be restricted to daytime operating hours.

44. Subdivision requires consent

In accordance with clause 18 of State Environmental Planning Policy (Affordable Rental Housing) 2009 any subdivision of this land requires the consent of Council.

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 <http://www.legislation.nsw.gov.au/-/view/regulation/2000/557/part6/div9>

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](#). 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.

Water payments under the Water Management Act 2000

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

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT
(ET Policy No:2018)

Water	6.4 ET
Bulk Water	6.4 ET
Sewer	8.5 ET

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