

**Without Prejudice Conditions of Consent 10.2017.639.1 Ardill Payne and Partners V
Byron Shire Council - 33 Kallaroo Circuit, Ocean Shores**

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:
01 Rev B	Cover sheet, area schedule	Byron Bay Drafting	26/06/2018
02 Rev B	Site (survey) plan	Byron Bay Drafting	26/06/2018
03 Rev B	Site plan	Byron Bay Drafting	26/06/2018
04 Rev B	Ground floor plan	Byron Bay Drafting	26/06/2018
05 Rev B	Roof plan	Byron Bay Drafting	26/06/2018
06 Rev B	Sections (1 and 2)	Byron Bay Drafting	26/06/2018
07 Rev B	Elevations (east and south)	Byron Bay Drafting	26/06/2018
08 Rev B	Elevations (west and north)	Byron Bay Drafting	26/06/2018
09 Rev B	Landscape plan, Street elevation	Byron Bay Drafting	26/06/2018

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:

- Inform the neighbouring property owner immediately.
- Engage a structural engineer to determine any remedial works that may need to be undertaken.
- Preserve and protect the adjoining building from damage.
- If necessary, underpin and support the building in an approved manner.

3. Bushfire safety measures

This land is identified as being designated bushfire prone land and Under S79B of the act, Council must be satisfied prior to making a determination for development on bushfire prone land that the development complies with "Planning for Bush fire Protection 2006". The development is approved subject to the following numbered conditions:

- The development proposal is to comply with the drawing titled 'Site Plan' prepared by Byron Bay Drafting, numbered 03, Revision B and dated the 26th June 2018.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the issue of a construction certificate and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. New water, electricity and gas supply shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

4. The existing building on proposed Lot 1 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.
5. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'

Landscaping

6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

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

4. 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 kerb inlet pit in Kallaroo Circuit.

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.

5. **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 (residential areas)

A driveway(s) in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

6. **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) Driveway pavement to be a minimum 3m wide with no obstructions such as down pipes, landscaping or fencing within the 3m pavement width;
- b) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- c) site conditions affecting the access;
- d) existing and design levels;
- e) longitudinal section from the road centreline to the car space(s);
- f) cross sections every 15 metres;
- g) drainage details;
- h) turning paths;

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”.

7. 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.

8. A Preliminary Acid Sulfate Soil Management Plan

A Preliminary Acid Sulfate Soil Management Plan must be submitted to and approved by the Council or Certifier prior to the issue of a construction certificate. The Plan must be prepared by a suitable qualified Environmental/Soil Scientist with soil testing in accordance with the Acid Sulfate Soil Manual (ASSMAC, 1998). The Plan should include any remedial measures that may be required as a result of testing and include:

- a) Identification of areas (and depths) of soil disturbance and acid drainage,
- b) Bunding and soil stockpiling requirements,
- c) Liming ratios,
- d) Leachate and excavation water management,
- e) Monitoring and testing program,
- f) Method of classification and disposal of soils to be removed from the site,
- g) Contingency measures.

The construction certificate must not be issued until this Plan is approved.

9. Plans of retaining walls and drainage

If applicable, 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.

10. Easement required over pipelines

In all new subdivisions and/or developments, an easement shall be provided for all pipelines 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.

11. 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.

12. 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.

13. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 786419S, dated 21/12/2017

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.

14. 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.

15. 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

16. Developer Contributions to be paid

Contributions set out in the schedule at the end of this consent 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).

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.

17. 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.

18. Tree Removal

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

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

19. 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).

20. Acid Sulfate Soils Management

Acid sulfate soil controls must be in place in accordance with the approved Acid Sulfate Soils Management Plan.

21. 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).

22. Water service to be connected

A water service 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 will be at the applicants cost.

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

23. Acid Sulfate Soils Management

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

24. 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.

25. **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.

26. **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.

27. **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.

28. **Fill to be retained on the subject land**

Fill material must not encroach onto any adjoining land.

29. **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.

30. **Removal of asbestos**

All asbestos wastes associated with removal of the existing dwelling to be disposed of in accordance with the requirements of the Workcover Authority. The applicant/owner is to produce documentary evidence that this condition has been met.

Note. the Byron Resource Recovery Centre can not accept asbestos. You will need to arrange disposal at an alternate landfill site.

31. **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.

32. **Stormwater drainage work**

Stormwater drainage for the development must be constructed in accordance with the

approved plans and specification by a suitably qualified person.

33. Demolition

Any required demolition works must be undertaken in accordance with the relevant requirements of Australian Standard AS 2601–1991: The Demolition of Structures published by Standards Australia, and the WorkCover Authority of NSW.

34. 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

35. 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.

36. 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](#)

37. Acid Sulfate Soils Management

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

38. Compliance with bushfire conditions

Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination have been complied with.

39. Deep soil planting - landscaping

Deep soil planting of locally indigenous species covering a total area of 280 m² is to include dense vegetation between the street boundary and the car parking space located in the front set back for the purposes of reducing the visual impact of the parking space when viewed from the street.

The following conditions are to be complied with at all times

40. Acid Sulfate Soils Management

The principle engineer must certify to the Principle Certifying Authority that Acid Sulfate Soils have been managed in accordance with the approved Acid Sulfate Soils Management Plan. Documentary evidence must be provided confirming the destination of all Acid Sulfate Soils removed from the site.

41. Deep soil planting and landscaping

The occupier of the premises must ensure that the approved deep soil planting is retained at all times.

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.

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:13/005)

Water	0.6 ET
Bulk Water	0.6 ET
Sewer	1.0 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.

**Section 94 contributions Schedule for
Ocean Shores
Catchment**

This schedule was calculated in spreadsheet #E2015/28112

1 bedroom units =	0	@	0.55 SDU	=	0
2 bedroom units =	0	@	0.75 SDU	=	0
3 bedroom units/dwellings =	2	@	1 SDU	=	2
Allotments =	0	@	1	=	0
Less Site Credits =	1	@	-1	=	-1

Total SDU = 1

Schedule valid until **25/07/2018**

**After this date contact Council for
CPI update.**

Local Open Space & Recreation	(OS-OS)	1.00	SDU @	\$ 1,712.12	=	\$ 1,712.12
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @	\$ 741.09	=	\$ 741.09
LGA wide Community Facilities	(CF-SW)	1.00	SDU @	\$ 1,085.41	=	\$ 1,085.41
Local Community Facilities	(CF-OS)	1.00	SDU @	\$ 1,478.24	=	\$ 1,478.24
Bikeways & Footpaths	(CW-OS)	1.00	SDU @	\$ 466.80	=	\$ 466.80
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @	\$ 79.62	=	\$ 79.62
Urban Roads	(R-OS)	1.00	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 224.25	=	\$ 224.25
Rural Roads	#N/A	1.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,120.96	=	\$ 1,120.96
Total					=	\$ 6,908.49