

## SCHEDULE 1. CONDITIONS OF CONSENT

### Parameters of consent

#### 1. Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Plan Title	Drawn by	Dated
Illustration 7 Rev B	MO Layout Plan (with Staging)	Balanced Systems	November 2023
Illustration 9	MO Management Plan (as revised by this consent)	Balanced Systems	March 2023
Illustration 5	Tree retention and removal plan	Balanced Systems	August 2023
Illustration 7 Rev B	Vegetation Management Plan (as revised by this consent)	Balanced Systems	November 2023
Rev A	Rural Landsharing Management Plan "The Midlands" (as revised by this consent)	Balanced Systems	August 2023
C2	Access Road 1 and Access Road 2 Details	SDS Civil Enterprises	November 2021
C3	Type BAR and BAL Intersection Works	SDS Civil Enterprises	November 2021
C4	Access Road 1 Longsection	SDS Civil Enterprises	November 2021
C5	Access Road 2 Longsection Sheet 1 of 2	SDS Civil Enterprises	November 2021
C6	Access Road 2 Longsection Sheet 2 of 2	SDS Civil Enterprises	November 2021
C7	West Dwelling Driveway	SDS Civil Enterprises	November 2021
C8 Rev A	Dwelling Site Driveway Longsection Sheet 1 of 3	SDS Civil Enterprises	April 2022
C9 Rev A	Dwelling Site Driveway Longsection Sheet 2 of 3	SDS Civil Enterprises	April 2022
C10 Rev A	Dwelling Site Driveway Longsection Sheet 3 of 3	SDS Civil Enterprises	April 2022
D1	Drainage Catchment & Sediment Control	SDS Civil Enterprises	November 2021

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

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

## 2. Staged Development

The development is to be carried out in the following stages:

**Stage 1: Cluster A Village**

**Stage 2: Cluster B Village**

**Stage 3: Cluster C Rural Living and Farm Residences**

Where conditions are required to be satisfied prior to a particular event, those conditions are the conditions relevant to the works being carried out in the stage.

The relevant conditions are the conditions deemed necessary by the Registered Certifier appointed for the development or the relevant consent authority.

## 3. Payment of security deposits

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

Security deposit	\$ 10,000
Inspection fee	In accordance with the <a href="#">current fees and charges</a> .

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

**Note:** The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

## 4. 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.

## 5. Conditions prescribed by the Regulation

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 2** to this consent.

## **6. Bush fire safety measures**

This land is identified as being designated bush fire prone land and under section 4.14 of the Environmental Planning and Assessment Act 1979, Council must be satisfied prior to making a determination for development on bush fire prone land that the development complies with "Planning for Bush Fire Protection 2019".

The development is approved subject to the following conditions:

### **Access – Property Access**

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

- a. Property access roads must comply with the property access section of Table 5.3b of Planning for Bush Fire Protection 2019 as follows:
  - Property access roads are two-wheel drive, all-weather roads.
  - The capacity of road surfaces and any bridges/ causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes), bridges and causeways are to clearly indicate load rating.
  - Minimum 4m carriageway width.
  - A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches.
  - Property access must provide a suitable turning area in accordance with Appendix 3 of 'Planning for Bush Fire Protection 2019'.
  - Curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress.
  - The minimum distance between inner and outer curves is 6m; the crossfall is not more than 10 degrees; and
  - Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

**Note:** Some short constrictions in the access may be accepted where they are not less than 3.5m wide, extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed. The gradients applicable to public roads also apply to community style development.

## **8. Development Contributions to be paid**

Development Contributions as set out in the schedule in the Notes Section of this Development Consent are to be paid to Council prior to the release of any construction certificate or complying development certificate for any dwelling that is the subject of an approval on the identified dwelling sites.

Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at [www.byron.nsw.gov.au](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.

**9. Certificate of Compliance from Rous County Council – s307 Water Management Act 2000**

Prior to the release of any construction certificate or complying development certificate for any dwelling that is the subject of an approval on the identified dwelling sites, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from Rous County Council confirming that all Developer Charges payable to Rous County Council have been provided to Rous County Council. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

**Note:** Rous County Council is the Water Supply provider for the location of the subject development. The applicant must organise the provision of a water service to the development with Rous County Council and provide a Certificate of Compliance from Rous County Council to this Council.

**10. Electricity Infrastructure**

To reduce visual impact on the sites landscape values, electricity infrastructure for each dwelling site shall be provided via underground power lines. Overhead powerlines shall not be utilised within the multiple occupancy.

**11. Electricity connection from St Aiden's Church**

The existing electricity infrastructure which passes through Lot 1 DP 920128 (3 Federal Drive) shall not be utilised as an electricity connection point for the proposed development, if it will require:

- the infrastructure to be upgraded or increased in capacity to accommodate additional load, or
- The requirement for an electricity easement to be burdened on the aforementioned land, or
- The requirement for any existing electricity easement to be expanded or altered to accommodate the upgraded electricity infrastructure.

**The following conditions are to be complied with prior to issue of any construction certificate or the commencement of any works**

**12. Amended Site Layout Plan and MO Management Plan**

The Site Layout Plan, entitled "Illustration 7 Multiple Occupancy Layout Plan, Rev B", by Balanced Systems, dated November 2023, is to be amended as follows:

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- Site number VB1 is to be deleted from the plans, or alternatively, is to be relocated to the “Farm Residences” cluster near Whian Road. Any new dwelling site in the “Farm Residences” cluster must have a minimum boundary setback of at least 60m from the adjoining property at 70 Whian Road and a setback of at least 50m from the Big Scrub rainforest remnant.

The MO Management Plan entitled “Illustration 9, Multiple Occupancy Management”, by Balanced Systems, March 2022, is to be amended as follows:

- The dwelling site layout shown on this plan is to be updated to reflect the amended Site Layout Plan referred to in Point 1 above.

The amended Site Layout Plan and MO Management Plan is to be submitted to Byron Shire Council for approval prior to the issue of a construction certificate application and/or prior to the commencement of any works associated with the multiple occupancy. The amended site Layout Plan and amended MO Management Plan (as approved by Council) is also to be included with the plans and specifications submitted for approval with the construction certificate application.

### **13. Amended civil plans**

Civil Engineering Plan no. C9, entitled “Dwelling Site Driveway Long Sections Sheet 2 of 3”, dated April 2022, is to be amended in accordance with the following requirements:

- The site layout shown for Cluster A Village (Stage 1) is to be updated to match the amended Site Layout Plan referred to in condition 7, Point 1 of this development consent. New driveway long sections are to be provided to indicate access to each amended dwelling site location.

The amended Civil Engineering Plan is to be submitted for approval as part of the construction certificate application and shall replace existing Civil Plan “C9” referred to in Condition 1 of this consent.

### **14. Revised site waste minimisation and management plan**

A revised Site Waste Minimisation and Management Plan (SWMP) is to be provided for approval as part of the construction certificate application.

The revised SWMP must include:

- a) Updated provisions detailing the method of on-site reuse, waste contractor, recycling outlet, and waste depots to be used.
- b) An updated site plan or dedicated waste management plan specifying the location of waste storage areas.
- c) Details of the areas to be excavated, quantity of soil to be extracted, and the location for excess soil to be stored.
- d) Type and number of storage bins, and signage for any centralised waste collection points.
- e) Waste collection being undertaken from within the development by either a centralised waste collection location on site or the kerbside of each dwelling site. The site plan shall detail vehicle access and manoeuvring arrangements.
- f) The proposed means of ensuring that the waste collection vehicle can enter and exit the site in a forward direction and can manoeuvre safely on site, consistent

with the requirements of DCP 2014, Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

**15. Amended Rural Landsharing Management Plan**

An amended Rural Land Sharing Management Plan (RLSMP) must be submitted to and approved by Council prior to the issue of a construction certificate and prior to the commencement of any works. The amended RLSMP must be based on, and generally in accordance with, the Draft Rural Landsharing Management Plan by Balanced Systems Planning Consultants (Rev A), dated August 2023, and shall include, but not necessarily be limited to, the following provisions:

**a) Vegetation management**

Vegetation on the site is to be managed at all times in accordance with the approved Vegetation Management Plan and conditions of consent. Measure for protecting and enhancing endangered species and ecological communities on the site shall be implemented. No tracks, roads, buildings, residential, or agricultural uses are permitted within the Big Scrub restoration areas identified in the approved Vegetation Management Plan

**b) Onsite Wastewater Management**

The owner of each dwelling in the multiple occupancy will be responsible for the management and servicing of their OSMS systems and any associated greywater systems or composting toilets, etc. The effluent management system associated with any farm buildings, sheds, workshops, or other future community buildings etc. will be the responsibility of community members.

**c) Water management**

All rainwater harvesting systems and storage tanks used for providing potable water must fitted with a first-flush device. Each dwelling in the multiple occupancy must have rainwater storage tanks with a capacity of at least 40kL in addition to any other water storage required for bushfire protection purposes.

**d) Waste management**

Garbage bins for each dwelling must be stored within a secure location within each dwelling site or stored in a central bin storage area for the multiple occupancy. Garbage and/or recycling bins must not be placed for collection in Federal Drive. Waste collection vehicles must enter the site and collect garbage and/or recycling bins from a centralised collection point or from the kerb in front of each dwelling site.

**e) Number and use of dwelling sites**

The multiple occupancy is limited to a maximum of one (1) dwelling per site and a maximum of fourteen (14) dwellings in total. Dual occupancy and secondary dwellings are prohibited within the multiple occupancy. Dwellings must not be used for the purposes of holiday letting, short-term rental accommodation or tourist and visitor accommodation.

**f) Building design**

Building design, materials and colours shall be sympathetic to the Eureka Village Landscape Conservation Area and shall be consistent with the rural character of the surrounding environment.

**g) Bushfire Management**

Provisions for bushfire management in accordance with the conditions of consent.

**h) Biological Vegetation Buffers**

Biological Vegetation Buffers shall be responsibly managed and maintained by the community at all times. Maintenance shall include, but not be limited to, weeding, watering, and replacement of failed plant material. No dwellings, outbuildings or community buildings shall be constructed within the Biological Vegetation Buffer areas.

**i) Use of chemicals, pesticides etc.**

Information shall be included detailing how chemicals or pesticides will be responsibly used as part of any agricultural and/or land management practices within the multiple occupancy.

The amended Rural Land Sharing Management Plan (as approved by Council) shall be included with the plans and specifications submitted for the construction certificate application.

**16. 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 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](http://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.

**17. 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:

<b>Driveway for Farm Residence in Whian Rd</b>	Road and Pavement Widening for the full frontage in Federal Drive and footpath construction in Federal Drive and Eureka Rd
<b>Driveway (alternative) in Whian Rd</b>	A 5.5m width driveway in accordance with the Illustration 7 (annotated by Council) in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

<b>Access/Intersection in Federal Dr</b>	Construction of BAR and BAL Intersection in accordance with the approved plans and Austroads Guide to Road Design.
<b>Road and Pavement Widening for the full frontage in Federal Drive and footpath construction in Federal Drive and Eureka Rd</b>	<p>Road pavement 6m wide with 1m shoulder and associated table drains, footpath formation including any necessary relocation of services as follows:</p> <ul style="list-style-type: none"> <li>• 1.2m footpath in accordance with the approved plan.</li> </ul>

#### **18. Construction site management plan**

Prior to the issue of a construction certificate and before the commencement of any works, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site.
- provisions for public safety.
- pedestrian and vehicular site access points and construction activity zones.
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site.
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable).
- details of any bulk earthworks to be carried out.
- location of site storage areas.
- equipment used to carry out all works.
- a garbage container with a tight-fitting lid.
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

#### **19. 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.

#### **20. Geotechnical Report required – Engineering Works**

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority, certifying that:



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

**21. 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.

**22. Geotechnical Report required – Soil Classification**

A soil report is to be provided to the Principal Certifying Authority from a professional Engineer experienced in Geotechnical Science as to the classification of the soil type on the site, consistent with the requirements of AS2870.

**23. 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”.**

**24. Stormwater Drainage – Connection to Existing Drainage System**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with AS/NZS 3500.3:2003, *Plumbing and drainage, Part 3: Stormwater drainage*. All stormwater drainage for the development must be conveyed by a gravity system to the existing stormwater drainage system within the site. Such plans and specifications must be approved as part of the Construction Certificate.

**25. Traffic Management Plan (TMP)**

Prior to issue of the construction certificate or commencement of any works, consent from Council must be obtained for a Traffic Management Plan (TMP) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The TMP is to be designed in accordance with the

requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The report must incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TMP and associated traffic guidance scheme/s must be prepared by a suitably qualified Transport for NSW accredited person.

**26. Internal access design, pavement, passing bays, turning heads and sealing**

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. Plans are to include, but not be limited to, the following items:

- a) Pavement designed in accordance with Chapter D2 of Northern Rivers Local Government Design and Construction Guidelines
- b) Internal access design in accordance with Table 7.4a and Appendix 3 of NSW Planning for Bushfire Protection – 2019 (width, vertical clearance, passing bays, turning heads, sealing but not limited to)
- c) site conditions affecting the access;
- d) existing and design levels;
- e) longitudinal and cross sections; and
- f) drainage details.

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".

**27. 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:

1. 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
2. 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).

## **28. Biological vegetation buffer**

A detailed Biological Vegetation Buffer Plan must be prepared by a suitably qualified professional to mitigate potential land use conflict due to chemical spray drift from neighbouring macadamia orchards.

The plan must be drawn to an appropriate scale and shall illustrate two vegetation buffers as shown on the approved MO Layout Plan, being:

- A Biological Vegetation Buffer on the eastern boundary separating sites RL1 to RL4 from the adjoining macadamia orchard at 149 Federal Drive, and
- A Biological Vegetation Buffer on the south-eastern boundary between sites VA1 to VA3 and the neighbouring macadamia orchard at 460 Eureka Road.

The Plan must specify:

- A minimum width of 30m for each vegetation buffer.
- Appropriate vegetation buffer length to ensure all site referred to above are protected from spray drift.
- A gap of at least 70m wide shall be incorporated into the buffer around the site entrance to Federal Drive to ensure scenic views north towards Nightcap National Park are retained (as shown on the approved MO Layout Plan).
- Use of native species with appropriate height and foliage characteristics to effectively filter windborne spray droplets.
- An appropriate density of plantings to ensure the buffer functions effectively, considering species characteristics and the mature height of selected trees.
- Design details in accordance with the "Planning Guidelines for Separating Agricultural and Residential Land Uses", by NSW Department of Primary Industries where relevant.

The Biological Vegetation Buffer Plan shall be submitted for approval as part of the construction certificate application.

## **29. Landscape Masterplan**

Prior to the issue of a construction certificate or commencement of works, a Landscape Masterplan is to be prepared to manage the landscaping works and development within the multiple occupancy to the satisfaction of Byron Shire Council.

The Landscape Masterplan must:

- a. Define and conserve the principal views and vistas for the site from publicly accessible locations, and from the setting of St. Aiden's Church and Rectory.
- b. New vegetation must not be planted in areas where it is likely to encroach into principal views of the site upon maturity of the trees.
- c. New vegetation must not be planted within the curtilage and setting St Aiden's Church and Rectory to ensure the historic and aesthetic significance of these buildings and the Eureka Village Landscape Conservation Area is not compromised.
- d. Additional landscaping, including canopy shade trees, shall be planted in and around dwelling clusters (except as provided in points a-c) to soften the visual appearance of future residential development.

The Landscape Masterplan must also indicate:

- a) The location of shrubs, grasses and garden beds to be established on areas of cut and fill, and around retaining walls, to soften the visual appearance of such earthworks and structures on the landscape.
- b) proposed location for planted shrubs and trees.
- c) botanical name of shrubs and trees to be planted.
- d) mature height of trees to be planted.
- e) location of grassed and paved areas, and
- f) location of trees identified for retention in the development application plans.
- g) Thirty (30) local native trees to be planted on the site to account for the trees removed and potential impacts on biodiversity.
- h) The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

The Landscape Masterplan must be submitted to Byron Shire Council for approval. The Council approved Landscape Masterplan shall also be included in the plans and specifications submitted for approval with the construction certificate application.

Note 2. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2019.

### **30. Native trees to be identified on plans**

All native trees within 10m of any roads, earthworks or building work shall be illustrated on all relevant construction plans as requiring protection, along with their Tree Protection Zones, calculated in accordance with AS4970-2009 – Protection of Trees of Development Sites.

### **31. 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 the commencement of any construction works or earthworks**

### **32. Erosion and Sediment Control Management Plan to be implemented**

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.**

**33. Toilet facilities**

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

Only one (1) such portable chemical toilet may be used during construction, should additional toilets be required during the construction they must be either:

- a. Connected to an accredited sewage management system approved by the Council. or
- b. Not installed or used until such time that approval under Section 68 of the Local Government Act 1993 is obtained for the installation of a human waste storage facility.

Note: The chemical toilet must be installed and serviced by a licensed contractor (including pump-outs)

**34. Traffic Management Plan to be implemented**

The approved Traffic Management Plan is to be implemented.

**35. Tree protection measures to be implemented**

All trees to be protected must have adequate tree protection measures (i.e., fencing etc.) implemented in accordance with AS4970-2009 Protection of trees on development sites prior to the commencement of any works.

**36. 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.

**37. 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.

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

**38. Biological vegetation buffer must be substantially completed**

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At least fifty percent of the plantings for the Biological Vegetation Buffer as detailed in the approved Biological Vegetation Buffer Plan shall be completed at the same time as the infrastructure works and earthworks for the multiple occupancy.

The remaining fifty percent of plantings must be completed prior to the issuing of any occupation certificate required for the infrastructure work and/or prior to the issuing of any construction certificate or complying development certificate for any dwelling within the multiple occupancy.

**39. Hours of work**

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7am to 6pm on Monday to Friday.
- 8am to 1pm on Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

**Note:** Any variation to the hours of work requires Council's approval.

**40. Construction Noise**

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

**41. 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.

**42. 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.

**43. 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.**

**44. 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.

**45. Tree protection measures to be maintained**

All tree protection measures shall be maintained in accordance with AS4970-2009 Protection of trees on development sites.

**46. All excavated soils to be disposed of off-site**

All excavated soils to be disposed of off-site and in accordance with NSW EPA *Waste Classification Guidelines* (2014) and approved environmental management plans.

**47. Excavated natural materials and demolition waste disposal**

Any and all excavated natural materials and demolition and builders waste transported from the site must be accompanied (a copy kept with the transporter) by a [NSW Protection of The Environment Operations Act s143 Notice](#).

**48. Removal of demolition and other wastes**

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the [NSW EPA Waste Classification Guidelines \(2014\)](#).

**49. Aboriginal Relics**

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- "relic" means any deposit, artefact, object or material evidence that:
  - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
  - b. is of State or local heritage significance; and

- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

**The following conditions are to be complied with prior to the issue of an occupation certificate and prior to the issue of a construction certificate or complying development certificate for any dwelling within the multiple occupancy**

**50. Roadworks and internal access to be completed**

The roadworks and internal access are to be constructed in accordance with the engineering plans required by this consent and the Roads Act consent. Certification that the works has been constructed in accordance with the engineering plans and Work-As-Executed (WAE), prepared by a suitably qualified engineer, together with a final completion letter from Council for the Roads Act works, must be submitted to the Registered Certifier prior to the issue of an occupation certificate or and prior to the issue of any construction certificate or complying development certificate for any dwelling within the multiple occupancy.

**51. 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,
- d) Not directly to a watercourse, and
- e) Not onto adjoining land

**52. 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.

**53. Electricity Supply Certificate**

A Notice of Arrangement (NOA) requested from the Distribution Network Service Provider, currently Essential Energy, must be submitted to the Registered Certifier. The NOA must confirm that satisfactory electricity supply has been provided to each of the proposed dwelling sites and all necessary street lighting has been energised for the development.

**Note:** Requests for a NOA are to be made to the Contestable Works section at Essential Energy.

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



The developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

1. 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
2. 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).

**55. Biological Vegetation Buffers must be fully established**

Prior to the issue of an occupation certificate and prior to the issue of any construction certificate or complying development certificate for any dwelling within the multiple occupancy, a certificate from a suitable qualified person must be provided to the Registered Certifier confirming that all plantings for the Biological Vegetation Buffer have been established, and that such works comply with the approved Biological Vegetation Buffer Plan and all other relevant conditions of consent.

**56. Landscaping Masterplan to be established**

All landscaping works including any compensatory plantings detailed in the approved Landscape Masterplan shall be established prior to the release of an occupation certificate and prior to the issue of a construction certificate or complying development certificate for any dwelling within the approved multiple occupancy.

A certificate from a suitably qualified landscape architect / architect / ecologist must be provided to the Registered Certifier confirming that the site has been landscaped in accordance with the approved plans and conditions of consent.

**57. Vegetation Management Plan – Year 1 works to be implemented**

All works required as a minimum up to Year 1 of the approved Vegetation Management Plan (VMP) are to be completed prior to the release of an occupation certificate and prior to the issue of a construction certificate or complying development certificate for any dwelling within the approved multiple occupancy.

A Certified Progress Report from a qualified and experienced ecologist and /or Bush Regenerator must be submitted to the Registered Certifier demonstrating that all actions for Year 1 have been completed.

**58. Works to be completed**

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 an occupation certificate and prior to the issue of any construction certificate or complying development certificate for any dwelling within the multiple occupancy.

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.

**The following conditions are to be complied with at all times**

**59. Rural Landsharing Management Plan**

The subject development is to be operated in accordance with the terms of the approved Rural Landsharing Management Plan at all times. In the event of an inconsistency between the Rural Land Sharing Management Plan and a condition of this consent, the condition shall prevail to the extent of the inconsistency.

**60. Waste Management**

The proposed development is to be managed in accordance with the approved site waste minimisation and management plan (as amended by any conditions of consent) at all times. Garbage bins are not to be placed in Federal Drive for collection. Waste collection is to occur via a centralised waste collection point within the site or else via kerbside pickup in front of each dwelling site.

**61. Underground electricity Infrastructure**

To reduce impacts on the sites landscape values, electricity infrastructure for each dwelling site shall be provided via underground power lines. Overhead powerlines shall not be utilised within the multiple occupancy.

**62. Biological Vegetation Buffers must be maintained.**

The Biological Vegetation Buffers must be maintained at all times in accordance with the approved Biological Vegetation Buffer Plan and all other relevant conditions of consent. Maintenance includes, but is not limited to, watering, weeding and the replacement of failed plant material.

**63. Landscape Masterplan**

The approved Landscape Masterplan must be implemented and adhered to at all times. Vegetation must not be planted or retained in or near the curtilage and setting of St. Aiden's Church and Rectory. Principal views of the site identified in the Landscape Masterplan must also not be obscured with new vegetation.

**64. Ecological restoration works**

Ecological restoration works must be undertaken and continued until the performance criteria have been achieved in accordance with the approved Vegetation Management Plan for the entirety of the time-period set out in the plan, during which annual monitoring reports must be submitted to Council for approval.

**65. No stockpiling of soil**

Excess soil displaced from any bulk earthworks must not be stockpiled or stored on the site. Excess soil must be removed from the site or else utilized in landscaping works as part of the proposed development in which case depth of soil shall not exceed 600mm in depth.

**66. Protection of vegetation for conservation purposes**

All native vegetation within the Big Scrub rainforest remnant, as identified in the approved Vegetation Management Plan, is to be protected in perpetuity for the purposes of environmental conservation.

**Please note.** Clearing of native vegetation is not permitted in the above-mentioned Vegetation Management Zones under the NSW Rural Fire Services 10/50 Clearing Code or the Rural Boundary Clearing Code for New South Wales.

**67. Dwellings per approved house site**

A maximum of one dwelling is permitted per dwelling site. No dual occupancy or secondary dwellings are permitted.

**68. Dwellings not to be used for short-term rental accommodation**

All dwellings and any other buildings within the multiple occupancy must not to be used for holiday-letting, short-term rental accommodation or tourist and visitor accommodation.

**SCHEDULE 2. PRESCRIBED CONDITIONS**

The prescribed conditions in accordance with Division 2, Subdivision 1 of the Environmental Planning and Assessment Regulation 2021 as at the date of this development consent as are of relevance to this development must be complied with:

[69](#) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

[70](#) Erection of signs

[71](#) Notification of Home Building Act 1989 requirements

[72](#) Entertainment venues

[73](#) Maximum capacity signage

[74](#) Condition relating to shoring and adequacy of adjoining property

[75](#) Fulfilment of BASIX commitments

Refer to the [Environmental Planning and Assessment Regulation 2021](#), Division 2, Subdivision 1 of for full text of the above clauses. This can be accessed at <http://www.legislation.nsw.gov.au>.

**SCHEDULE 3. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED**

*Note: From July 1 2018, Council's are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.*

<b>Statement of Reasons</b>
The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.
The proposed development is unlikely to prejudice or compromise the public interest.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Clause 5.10 of Local Environmental Plan 2014.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Development Control Plan 2014.

## **SCHEDULE 4. NOTES**

### **Essential Energy Notes:**

The development application was referred to Essential Energy for comment in accordance with s2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Essential Energy made the following comments as to the potential safety risks arising from the proposed development:

- Minimum safety clearance requirements are to be maintained at all times for the proposed driveway access and access roads, as such driveway access and access roads will pass under Essential Energy's existing overhead powerlines located at the front of the property (along Federal Drive) and within the property. The driveway access and access roads must comply with clearances for trafficable land, ground clearances must be maintained. Refer Essential Energy's policy CEOM7106.25 Minimum Clearance Requirements for NSW (attached) and the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

Essential Energy also made the following general comments:

1. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the proposed dwellings in accordance

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with NSW Service and Installation Rules. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.

2. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
3. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
4. In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity of the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
5. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW). 6. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

#### **S7.11 Schedule of Development Contributions**

The following contributions 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 current contribution rates are available from Council offices during office hours. **Payment's will only be accepted by cash or bank cheque.**

Section 7.11 contributions Schedule						
Rural South						
Catchment						
This schedule was calculated in spreadsheet #E2021/99005						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		14	@	1 SDU	=	14
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	13
		No further indexation. Contributions are at the Ministerial cap.				
Local Open Space & Recreation	(OS-RS)	13.00	SDU @	\$ -	=	\$ -
LGA Wide Open Space & Recreation	(OS-SW)	13.00	SDU @	\$ 828.74	=	\$ 10,773.56
LGA wide Community Facilities	(CF-SW)	13.00	SDU @	\$ 1,213.78	=	\$ 15,779.08
Local Community Facilities	(CF-RS)	13.00	SDU @	\$ -	=	\$ -
Bikeways & Footpaths	#NA	13.00	SDU @	\$ -	=	\$ -
Shire Wide Bikeways & Footpaths	(CW-SW)	13.00	SDU @	\$ 89.03	=	\$ 1,157.38
Urban Roads	#NA	13.00	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	13.00	SDU @	\$ 250.77	=	\$ 3,260.03
Rural Roads	(R-RS)	13.00	SDU @	\$ 16,364.15	=	\$ 212,734.00
Administration Levy	(OF-SW)	13.00	SDU @	\$ 1,253.54	=	\$ 16,295.96
<b>Total</b>						<b>\$ 260,000.00</b>

#### 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 for a Construction Certificate must be made online using the [NSW Planning Portal](#).

#### Principal Certifying Authority:

Work must not commence until the applicant has:-

- appointed a Principal Certifying Authority (if the Council is not the PCA); and
- 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'.
- 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.

### **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.

### **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).

### **Fire Ants**

The importation of any of the following material from Queensland invasive ant biosecurity zones must be in accordance with the [Biosecurity \(Invasive Ant Carriers\) Control Order 2023](#) (including any revised orders made under the Biosecurity Act 2015) and meet the requirements of NSW Department of Primary Industries:

- organic mulch (which includes manure, bark, wood chips, hay, straw, sileage, and sugar cane bagasse);
- baled materials;
- potted plants;
- agricultural or earth-moving machinery;
- fill or soil (which includes anything with soil on it such as turf); and
- mining or quarrying materials.

Prior to the importation of each material type, the supplier must provide the receiver and the Principal Certifying Authority with the relevant Certificate as identified within the Biosecurity (Invasive Ant Carriers) Control Order 2023 or revised biosecurity control orders. All material shall meet the requirements of the relevant Certificate.

It is an offence under the Biosecurity Act 2015 if this material comes from within five kilometres of a known invasive ant infested area (e.g. identified Fire Ant Biosecurity Zones in Queensland), or any other place at which the person knows, or ought reasonably to know, that an invasive ant has been detected, unless the carrier material has been managed and treated to reduce the risk and meets the certification requirements listed in the Control Order.

