

CONDITIONS OF CONSENT

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.	Revision No.	Title	Drawn by	Dated
DA.01	DA5	Cover Page	Harley Graham Architects	7/03/24
DA.02	DA5	Survey Plan Structures to be Demolished	Harley Graham Architects	7/03/24
DA.03	DA5	Site Plan	Harley Graham Architects	7/03/24
DA.04	DA5	Floor Plan – Basement (annotated by Council)	Harley Graham Architects	7/03/24
DA.05	DA5	Floor Plan – Ground Floor	Harley Graham Architects	7/03/24
DA.06	DA5	Floor Plan – First Floor	Harley Graham Architects	7/03/24
DA.07	DA5	Floor Plan – Second Floor	Harley Graham Architects	7/03/24
DA.08	DA5	Floor Plan – Roof Terrace	Harley Graham Architects	7/03/24
DA.09	DA5	Floor Plan – Roof	Harley Graham Architects	7/03/24
DA.10	DA5	Apartment Plan	Harley Graham Architects	7/03/24
DA.11	DA5	Apartment Plan	Harley Graham Architects	7/03/24
DA.12	DA5	Apartment Plan	Harley Graham Architects	7/03/24
DA.13	DA5	Apartment Plan	Harley Graham Architects	7/03/24
DA.14	DA5	Apartment Plan – Liveable No.1	Harley Graham Architects	7/03/24
DA.15	DA5	Apartment Plan – Adaptable No.3	Harley Graham Architects	7/03/24
DA.16	DA5	Detail – Bin Room	Harley Graham Architects	7/03/24
DA.17	DA5	South Elevation	Harley Graham Architects	7/03/24
DA.18	DA5	North Elevation	Harley Graham Architects	7/03/24
DA.19	DA5	East Elevation	Harley Graham Architects	7/03/24
DA.20	DA5	East Elevation	Harley Graham Architects	7/03/24
DA.21	DA5	Courtyard South Elevation	Harley Graham Architects	7/03/24
DA.22	DA5	Courtyard North Elevation	Harley Graham Architects	7/03/24
DA.23	DA5	Long Section	Harley Graham Architects	7/03/24

DA.24	DA5	Short Section	Harley Graham Architects	7/03/24
C301	P3	Basement Level Stormwater Drainage Plan	Edge Consulting Engineers	13/10/23
C302	P3	Ground Level Stormwater Drainage Plan	Edge Consulting Engineers	13/12/23
C331	P2	Details Sheet	Edge Consulting Engineers	2/10/23

Title	Version No.	Drawn by	Dated
9 Marvel St, Byron Bay NSW Design Excellence Report – Sustainability	REV03 Council Doc # E2024/25389	Finding Infinity	08/03/2024
Site Waste Minimisation and Management Plan (SWMMP)	19282W-REP03-F02 Council Doc # E2024/25384	Ratio Consultants Pty	7/03/2024
Dewatering Management Plan, 9 Marvell St, Byron Bay, NSW	78307 Council Doc # E2023/135299	Prensa Pty Ltd	December 2023
Acid Sulfate Soil Assessment and Management Plan, 9 Marvell St, Byron Bay, NSW	120379B Council Doc # E2023/135300	Prensa Pty Ltd	December 2023
Noise Impact Assessment, Mixed Use Development at 9 Marvell St Byron Bay	ATP220541 – R – NIA – 01 Council Doc #E2023/24397	ATP Consulting Engineers	July 2022
Landscape Plans	Rev A Council Doc # E2024/6739	Florian Wild	December 2023

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. 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	\$ 10000
Inspection fee	In accordance with the current fees and charges .

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

3. Support for neighbouring buildings

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made or builder must:

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

4. Conditions prescribed by the Regulation

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

5. Integrated Approvals from other State Government Approval Bodies

This development consent includes two Integrated development approvals under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being dewatering management general terms of approval under the Water Management Act 2000 and Section 100B approval under the Rural Fires Act 1997 for strata subdivision for a residential use and is subject to the General Terms of Approval from *Water NSW and NSW Rural Fire Service* contained in **Schedules** of this consent.

6. Essential Energy Requirements

A distance of 2.1m from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required to ensure that there is no safety risk to high voltage power pole located south western boundary.

It is essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities.

The applicant will need to submit a Request for Safety Advice if works cannot maintain the safe working clearances set out in the Working Near Overhead Powerlines Code of Practice, or CEOP8041 - Work Near Essential Energy's Underground Assets.

Information relating to developments near electrical infrastructure is available on our website Development Applications (essentialenergy.com.au). If the applicant believes the development complies with safe distances or would like to submit a request to encroach then they will need to complete a Network Encroachment Form via Essential Energy's website Encroachments (essentialenergy.com.au) and provide supporting documentation.

Applicants are advised that fees and charges will apply where Essential Energy provides this service. The applicant's attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.

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

7. Construction site management plan

Before the issue of a construction certificate, 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 and sheds
- 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.

8. **Sustainability Commitments Prior Construction Certificate**

The plans submitted with the application for a construction certificate shall include all Sustainability Design Excellence commitments and standards set out in the "9 Marvel St, Byron Bay NSW Design Excellence Report – Sustainability, Issued 20/12/2023, REV03 08/03/2024" to the satisfaction of the Council.

This shall include avoidance of all Red Listed materials detailed in the report.

9. **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.

10. **Geotechnical Report required – Engineering Works**

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

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

11. **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".

12. **On-site stormwater detention (OSD) for stormwater quantity and Stormwater Quality Improvement Devices (SQIDs) for stormwater quality 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 into Council's stormwater drainage system in Marvell St, provision must be made to provide stormwater quality measures to meet the stormwater quality requirements in Council's DCP and approved plans.

Such plans and specifications including an on-going maintenance plan accordance with the Manufacturer's specification and a signed 5 year maintenance contract agreement with the manufacturer specialist technician 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.

13. Consent required for Works within 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:

a) Roadworks in Fletcher Lane

- (i) A driveway in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings" and approved plans.
- (ii) Kerb and gutter, road pavement and associated drainage construction including any necessary relocation of services as follows:
 - across the full frontage of the site;
 - pavement widening from the face of kerb up to the existing edge of seal;
 - pavement widening generally in accordance with IPWEAQ-SEQ R-170;
 - kerb and gutter to match the existing kerb and gutter west of the development site;
 - associated drainage and other services utilities upgrading requirement; and
 - signage.

b) Roadworks in Marvell St

- (i) Full width footpath for the full frontage of the site in Marvell St
- (ii) Footpath design to meet part D4.2.13 of Chapter D4 of BDCP 2014.
- (iii) Redundant driveway to be removed.
- (iv) Walkway and ramps gradient to meet the accessible requirement in AS1428 and must transition with the existing footpath levels with neighbouring sites in Marvell St
- (v) Crossfall of 1 % or 1:100 (maximum 2.5% or 1 in 40).
- (vi) Awnings and structures on the road reserve must be setback 1.0m from the kerb and gutter (invert). The underside of the awning must be 3.2m minimum above the footpath level.
- (vii) Structural engineers certification from a practising structural engineer must be submitted with the section 138 Roads Act Application certifying that the structural design of the awning comply with relevant clauses of BCA.
- (viii) Demolish the existing invert crossing driveway in Marvell St and replace with upright kerb and gutter.

Subject to Local Traffic Committee Recommendation, road works in Marvell St to accommodate the following: -

- (ix) Demolish the existing landscaped island and reconstruct the landscaped island to accommodate a 45° SRV loading bay.
- (x) Construct 1 x 45° SRV loading bay in accordance with AS2890.2.
- (xi) Install marking to guide traffic between Fletcher St to Middleton St in Marvell St to cater for the 45° SRV loading bay. Minimum offset distance of 7.2m is required between the existing kerb and gutter (invert) and the furthest corner of the loading bay.
- (i) Install a time limited SRV loading bay signage showing loading bay hours of operation between 8am to 6pm only.
- (ii) Install intermittent centreline marking between Fletcher St to Middleton St in Marvell St (minimum travel lane to be 3.5m).

c) Adjustment of Services

Adjustment and/or relocation of services within the road reserve as necessary to the requirements of the appropriate service authorities and to ensure that the services are constructed flush with the finished surface levels.

14. **Flood Planning Level**

The flood planning level for this development is 3.44m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at, or up to 0.3m above, the flood planning level unless a greater floor level has been shown on the plans approved by the development consent.

The plans and specifications to accompany the construction certificate application are to also indicate the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.

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

15. **Public Safety Management Plan required**

Consent from Council must be obtained for a Public Safety Management Plan for those works within the road reserve pursuant to Section 138 of the Roads Act 1993. This public safety management plan is to include provision for (but not be limited to):

- a) a pedestrian barrier, alternative footpaths and ramps as necessary;
- b) an awning sufficient to prevent any substance from, or in connection with, the work falling into the road reserve;
- c) lighting of the alternative footpath between sunset and sunrise;
- d) the loading and unloading of building materials;
- e) parking space for tradesman's vehicles, where such vehicles must be located near the site due to tools and equipment contain within the vehicle;
- f) Removal of any such hoarding, fence or awning as soon as the particular work has been completed.

16. **Traffic Management Plan**

Consent from Council must be obtained for a Traffic Management Plan pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction 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.

17. **Basement, access, carparking and vehicle circulation 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, AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities, AS 2890.6 – 2009 - Parking facilities, Off-street parking for people with disabilities and Building Code of Australia (BCA). Plans are to include, but not be limited to, the following items:

- a) generally in accordance with the approved drawings;
- b) basement car park in accordance with Section B4.2.6 of Chapter B4 of BDCP 2014;
- c) twenty three (23) parking spaces including
 - two (2) carshare spaces
 - four (4) EV spaces
 - two (2) accessible parking spaces
 - one (1) liveable spaces
- d) signals provided at bottom ramp to manage traffic along ramp;

- e) signage to indicate reverse parking only to the immediate parking spaces to the basement ramp
- f) provide measures to control traffic and safety hazard “such as mirrors” to warn incoming vehicle from the basement ramp and outgoing vehicles from the immediate parking spaces to the basement ramp
- g) grades and transitions to comply with AS 2890.1;
- h) pavement description;
- i) site conditions affecting the access;
- j) existing and design levels;
- k) longitudinal section from the road centreline to the to the base of each ramp;
- l) cross sections every 15 metres;
- m) drainage details;
- n) turning paths; and
- o) 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”.

18. Basement Carpark Line marking plan required

The application for a Construction Certificate is to include a line marking plans in accordance with the annotated HGA344 drawing DA.04 approved by this consent.

19. Anchor for Basement levels

No Anchors, temporary or permanent, for the basement levels are to extend into the road reserve of Fletcher Lane or Marvel Street, Byron Bay.

Details on construction methods to be submitted with the Construction Certificate as to how this will be complied with.

20. Car Share Management Plan

A Car Share Management Plan must be submitted to the Council for approval prior to the issue of the Construction Certificate. The car is:

- to be owned and maintained by the body corporate at all times;
- be able to accommodate a minimum of four adults;
- be for available only for residents;
- be no more than 5 years in age from the time of manufacture;
- be an automatic;
- be suitable for use on sealed and unsealed roads;
- be registered and appropriately comprehensively insured for guest use including public liability; and
- parked in the basement with the space reserved and signposted at all times for the car share vehicle.

The Management Plan to address the above requirements and include the following detail:

- a) Type of vehicle;
- b) Reserved Parking location in the Basement;
- c) Booking arrangements and measures for the residents;
- d) Refuelling or charging measures;
- e) Maintenance and cleaning regime; and
- f) Monitoring to enable data to be collected as to the effectiveness of the Car Share arrangements and sharing of that detail with Council if requested.

21. **Public liability insurance cover required**
The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$20 million. Council is to be nominated as an interested party on the policy.
22. **Waste Management Plan**
The application for a Construction Certificate is to include waste management plan to manage the following:
- Pickup in Fletcher Lane by commercial contractor;
 - Provision of temporary waste storage area in accordance with drawing DA.05 by Harley Graham Architects dated 7/3/24
 - Refuse to be collected between 7am and 8am in Fletcher Ln.
 - A maximum of two (2) collections per week
 - Refuse collection vehicle must be limited to a rear-lift truck up to 8.8m length.
 - Waste collection bins must be managed in accordance with Chapter 6.3 of the Site Waste Minimisation and Management Plan by Ratio version REP03F02 dated 7/3/24
 - Contract agreement from commercial contractor in accordance with the Waste Management Plan must be provided.
23. **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:
- (i) 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
 - (ii) 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).
24. **NSW Office of Water Licence – Dewatering**
A licence must be obtained from the NSW Office of Water for the dewatering of excavations and any associated groundwater monitoring bores.
25. **Details for construction dewatering management plan required**
The contracting Engineer must demonstrate to Council that the methodology and equipment employed to undertake dewatering conforms to the approved report entitled *Dewatering Management Plan, 9 Marvell St, Byron Bay, NSW prepared by Prensa Pty Ltd dated December 2023*. The plan must include the following:
- a) copy of licence from the NSW Department of NSW Office of Water for the dewatering of excavations and any associated groundwater monitoring bores;
 - b) water quality criteria for waters to be discharged to the stormwater system, to be derived from ANZECC / ARMCANZ (2000) Fresh and Marine Water Quality Guidelines 95% species protection trigger levels for freshwaters, or similar. Parameters to include, but not be limited to, pH, electrical conductivity, dissolved oxygen, total suspended solids, turbidity, ammonia, oxidised nitrogen (NOx), Total Nitrogen (TN), Filterable Reactive Phosphorus, Total Phosphorus, Total Petroleum Hydrocarbons, Benzene, toluene, ethyl benzene, xylene (BTEX), Polycyclic Aromatic Hydrocarbons (PAHs) and Aluminium;
 - c) details of proposed water treatment prior to discharge to ensure compliance with the above water quality criteria, including those that are manual and automated;
 - d) site plan that demonstrates the location of all dewatering equipment and tanks;
 - e) details of water sampling methodologies and frequencies for each parameter;
 - f) details of disposal methods if water does not comply with above criteria; and
 - g) details of a 24-hour contact person and telephone number for complaints.

Plans and specifications to be approved by Council prior to the issue of a construction certificate for basement construction works.

26. **Soil and Water Management plan required**

The contracting Engineer must demonstrate to Council that the methodology and equipment employed to undertake management of acid sulphate soil and water conforms to plan entitled *Acid Sulfate Soil Assessment and Management Plan, 9 Marvell St, Byron Bay, NSW prepared by Prensa Pty Ltd dated December 2023*.

The Plan must address (but not be limited to) the following matters:

- i) Implementation of NSW Office of Water licence conditions and recommendations.
- ii) Additional testing for the presence of acid sulfate soils during excavations and the waste classification of all soils destined for off-site disposal.
- iii) Name and address of nominated licenced waste facility for the disposal of contaminated excavated waste material.
- iv) Copy of consignment number transportation tracking required for haulage of excavated materials (see notes below).
- v) Measures for the protection of the surrounding stormwater system and receiving waters, water quality management, litter control, sediment control, potential acid runoff and the prevention of pollution.
- vi) Monitoring of groundwater levels and water quality during the construction phase to confirm predictions and to establish water quality objectives and treatment levels.
- vii) Estimates of flow rates and volumes associated with groundwater extraction and re-infiltration/discharge.
- viii) 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.
- ix) The submission of a report and certification from suitably qualified and practising geotechnical and structural engineers, certifying that the method of construction will not result in the lowering of the water table outside of the proposed excavation, and that the method of construction will not result in any off-site impacts, such as damage to surrounding buildings or infrastructure, as a result of differential sediment compaction and surface settlement during dewatering and in both the short and the long-term.

The engineers are to be Corporate Members of the Institution of Engineers Australia.

- x) The submission of a report and certification from suitably qualified and practising geotechnical and structural engineers, certifying that the method of construction will preclude the need for any type of permanent post-construction dewatering facility or activity.

Plans and specifications to be approved by Council prior to the issue of a construction certificate for basement works.

27. **Detailed Environmental Management Plan – Demolition / Construction**

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to the issue of the construction certificate for demolition and building works. The EMP must detail the methods that will be implemented for the whole project and:

- a) be prepared by a suitably qualified professional;
- b) contain details of measures to be undertaken to ensure that demolition and construction works do not result in any off-site impacts, including those that could interfere with neighbourhood amenity;
- c) include a Waste Management Strategy that details the management of building wastes created as a result of the demolition and construction including on-site storage and disposal of building wastes;
- d) include a Construction Management Plan that demonstrates that all construction activities can be undertaken without resulting in land-use conflicts; and include details of complaints handling process.

28. **Detailed Noise Management Plan – Demolition / Construction**

A Detailed Noise Management Plan must be submitted to Council for approval prior to the issue of the construction certificate for building works. The Noise Management Plan must have reference to *Noise Impact Assessment, Mixed Use Development at 9 Marvell St Byron Bay*, Report no. ATP220541 – R – NIA – 01 dated July 2022, and detail the methods that will be implemented for the whole project to minimise construction noise. Information must 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 (see <http://www.environment.nsw.gov.au/noise/constructnoise.htm>)

29. **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, to the satisfaction of Council's Director of Planning, Development and Environment.

Please provide an evaluation of current and past land uses on the property, or on neighbouring properties where past or current land use practices would have an impact on this property, so that Council can determine whether contamination is an issue on this property, pursuant to State Environmental Planning Policy Resilience and Hazards. The evaluation must be verifiable and specific to the subject property and include any supporting documentation. Reference should be made to the NSW EPA Consultants Reporting on Contaminated Land – Contaminated Land Guidelines 2020 with regards to preliminary investigations, reporting methodology and information sources for obtaining land use history. For details refer to <https://www.epa.nsw.gov.au/your-environment/contaminated-land/statutory-guidelines>

30. **Dilapidation Report**

The submission of a certified report from suitably qualified and practising geotechnical and structural engineers, certifying that the method of construction will not adversely impact/effect the structural integrity and support of the neighbouring buildings and associated private and public infrastructure within the zone of influence of the construction site. The report is to also address the current structural state of those buildings and infrastructure.

The engineers are to be Corporate Members of the Institution of Engineers Australia.

31. **Details of on-site mechanical plant design to be submitted for approval**

Mechanical plant must be designed and installed to comply with noise levels recommended in report entitled *Noise Impact Assessment, Mixed Use Development at 9 Marvell St Byron Bay*, Report no. ATP220541 – R – NIA – 01 dated July 2022 and relevant Australian Standards. The application for a construction certificate must include plans and specifications that demonstrate compliance with report and approved as part of the Construction Certificate for building works.

32. **Details of acoustic treatments for building construction to be submitted for approval**

The application for a construction certificate must include plans and specifications that demonstrate the inclusion of acoustic treatments recommended in report *Noise Impact Assessment, Mixed Use Development at 9 Marvell St Byron Bay*, Report no. ATP220541 – R – NIA – 01 dated July 2022. Such plans and specifications must be in accordance with BCA and Australia Standard requirements and approved as part of the Construction Certificate for building works.

33. **Design and Layout Plans - Food Premises**

Detailed plans prepared by a suitably experienced person showing the design and layout of the premises to be used as a food business must be submitted to Council. The design details are to be drafted in accordance with relevant legislation and standards, including:

- a) Food Act 2003;
- b) Food Regulation 2015;
- c) Food Standards Code, Chapter 3.2.3;
- d) Relevant Australian Standards:
 - i. AS 4674 – 2004 Design, Construction and Fit-Out of Food Premises;
 - ii. AS 1668.1 & AS 1668.2 Mechanical Ventilation;
 - iii. Other relevant standards.
- e) The Building Code of Australia.

Such plans must be approved by Council's Environmental Health Department prior to the issue of a construction certificate for building works. Plans are to be submitted in duplicate and accompanied by fees as described in Council's adopted Fees and Charges.

Advisory note:

Application forms are available from Council's Environmental Health department. The following document [Food premises design, construction and fit-out guide](#) on Council's website can provide guidance about the design requirements of a food premises based on the Food Safety Standard 3.2.3 (Food Premises and Equipment) and the Australian Standard 4674-2004 (Design, construction and fit-out of food premises).

34. **Compliance required with Building in the Vicinity of Underground Infrastructure Policy**

All developments must comply with Policy: Building in the Vicinity of Underground Infrastructure 2020. Swimming pools are classed as buildings and are required to comply with this policy.

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

Any retaining wall / 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.

A minimum horizontal clearance of 1.5m from the centre is required around existing access structures as well as minimum vertical clearance of 3m from finished ground level is required.

35. **Water and Sewerage - Section 68 approval required**

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

Water metering to be in accordance with Byron Shire Council's water metering requirements
See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

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

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

If required, an **Approval** under Section 68 Part B of the Local Government Act 1993 to carry out sewerage work must be obtained where the pool backwash is to be connected to the sewer via a new overflow relief gully

37. **Trade Waste - Section 68 Part C approval required**

An **approval** under Section 68 Part C of the Local Government Act 1993 to discharge liquid trade waste into Council's sewer must be obtained in accordance with current NSW Liquid Trade Waste Guidelines, Council's Liquid Trade Waste Policy and Liquid Trade Waste Guidelines.

Commercial, business, trade and industrial activities discharging or proposing to discharge to the sewer are required to notify Council and complete the Liquid Trade Waste Registration Form available at the Mullumbimby Office and from Council's website at:

[Liquid Trade Waste registration form - Byron Shire Council \(nsw.gov.au\)](https://www.byrongov.au/liquid-trade-waste-registration-form)

Liquid Trade Waste approval must be obtained prior to gaining Section 68 Part B approval to carry out water supply work and sewerage work.

38. **Certificate of Compliance – s307 Water Management Act 2000**

Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous County Council Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

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

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website: <https://www.byrongov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

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

Payment by Personal or Company Cheque will not be Accepted

39. **Long Service Levy to be paid**

In accordance with Section 6.8 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable).

These payments can be made online at www.longservice.nsw.gov.au. Proof of payment is required to be submitted with the Construction Certificate application.

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

40. **Developer Contributions to be paid**

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). The Plan may be viewed on line at www.byrongov.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.

41. **Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1731339M, dated 20 December 2023 (Council Doc # E2024 25401) and other commitments included the following NATHERs Certificates etc Council Documents numbered: E2024/25391 - E2024/25400 inclusive.

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 measures may be undertaken without the issue of any amendment under Section 4.55 of the Act, provided that the changes do not affect the form, shape or size of the building.

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

42. **Details of pool fence required**

The application for a Construction Certificate is to include plans and specifications that indicate the details of the fence around the swimming pool in accordance with the Swimming Pools Act 1992 and AS1926.1.

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

43. **Waste Management Plan**

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

a. Council's Waste Management Development Control Plan

OR

b. details the following:

- the contact details of the person(s) removing the waste
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
- the address of the disposal location(s) where the waste is to be taken

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

44. **Tree Removal**

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

45. **Insect screening required**

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

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

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

46. Sustainability Commitments Prior Construction

Prior to installation of materials, full details of the proposed carbon neutral or reduced carbon bricks and/or concrete to be used in the project shall be provided to the satisfaction of Council.

47. Public Safety Management Plan

The approved public safety management plan is to be implemented.

48. Traffic Management Plan

The approved traffic management plan is to be implemented.

49. 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 shall 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.

50. Vibration Management Plan required

Prior to the commencement of any excavation works requiring rock drilling, blasting or breaking on the site, a Vibration Management Plan prepared by a suitably qualified person shall be submitted to Council or Principal Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- a) Identification of the specific activities that will be carried out;
- b) Identification of all potentially affected sensitive receivers;
- c) Determination of appropriate vibration objectives for each identified sensitive receiver;
- d) Vibration monitoring, reporting and response procedures;
- e) Assessment of potential vibration from the proposed construction activities;
- f) Description of specific mitigation treatments, management methods and procedures that will be implemented to control vibration during construction;
- g) Procedures for notifying residents of construction activities that are likely to affect their amenity through vibration, and
- h) Contingency plans to be implemented in the event of non-compliance and/or complaints.

51. Erosion and Sediment Control Management Plan required

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

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

52. Approved Environmental Plans must be implemented

The works engineer must certify to the Principal Certifying Authority that all requirements contained in the approved environmental management plans have been implemented. The applicant is required to

ensure that the construction management and all construction staff are made aware of their responsibility to abide by the plans.

53. **Acid Sulfate Soils Management Plan**

Acid sulfate soil controls must be in place in accordance with the approved Acid Sulfate Soils Management Plan, and any Soils and Water Management and Dewatering Management Plan.

54. **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)

55. **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

56. **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.

57. **Construction Noise**

While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

OR

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.

58. **Approved Environmental Plans must be implemented**

All controls and measures must be maintained in accordance with approved environmental plans and reports. The applicant is required to ensure that the construction management and all construction staff are made aware of their responsibility to abide by the plans.

59. **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 report must be kept on the property at all times during construction and made available to any person.

60. **Dewatering of Excavations**

Dewatering of excavations must be conducted in accordance with the approved dewatering plans. 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.

61. **WorkCover Authority**

All works must be undertaken in accordance with the requirements of the WorkCover Authority.

62. **Implementation of BASIX commitments**

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

63. **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.

64. **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.

65. **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.

66. **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.

Please note the Byron Resource Recovery Centre cannot accept asbestos. You will need to arrange disposal at an alternate landfill site.

67. **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.
68. **Stormwater drainage work**
Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.
69. **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.
70. **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.
71. **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 \(2014\)](#)
72. **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](#).
73. **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.
74. **Site Location**
The location of the building on the site to be established by a suitably qualified Surveyor and must comply with this approval including any required setbacks to boundaries.

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

75. **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.
76. **Sustainability Commitments Prior Occupation**
Prior to occupation of the building, the application shall submit a detailed Design Excellence – Sustainability Audit and Outcomes Report that demonstrates compliance with all sustainability commitments detailed in conditions to the satisfaction of Council.
77. **Construction - Food Premises**
Prior to the issue of the occupation certificate the food premises must be constructed in accordance with design and layout plans approved by Council.
- Advisory note:**
Requirements of Food Standard Code 3.2.3 and Australian Standard AS4674 – 2004 “Design, construction and fit-out of food premises” to be considered to achieve the necessary construction standards for the food business.
78. **Trade Waste**
An approved trade waste device shall be installed, inspected by Council and maintained to ensure that all relevant environment protection and plumbing code standards are satisfied.
79. **Exhaust System**
On completion of the kitchen exhaust-hood installation, provide a certificate and system specifications detailing the air flow velocity readings to Council. The certificate should be completed by a suitably qualified professional and shall ensure that the installation satisfies AS1668.2 “Mechanical ventilation for acceptable indoor-air quality”
80. **Airlock**
An airlock shall be constructed between the toilet facilities and internal workspaces to prevent the transfer of contaminants into the food business and comply with the Building Code of Australia.
81. **Noise attenuation requirements for plant machinery and building construction design**
A suitably qualified acoustic consultant must certify that attenuation measures for plant machinery and building construction design have been constructed in order to achieve compliance with approved plans. Certification is to be submitted to Council prior to issue of an Occupation Certificate.
82. **Acid sulfate soils**
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, and any Soils and Water Management and Dewatering Management Plan.
83. **Certification required**
The works engineer must certify to the Principal Certifying Authority that all works have been carried out in accordance with the approved Environmental Management Plans.
84. **Plumbing Works**

All works in relation to any associated Section 68 Water and Sewerage approval must be fully complied with and have a Final Plumbing Certificate issued prior to the issue of an Interim or Final Occupation Certificate.”

85. **Roadworks, access, internal circulation roadway and basement car park to be completed.**

The roadworks, access, internal circulation roadway and basement car park are to be constructed in accordance with the approved plans and Roads Act consent.

86. **Stormwater upgrade, On-site Stormwater Detention and Stormwater Quality Improvement Devices – Certification of works**

All stormwater drainage works, including stormwater upgrade, on-site stormwater detention works and stormwater quality improvement devices, 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](#)

87. **Carshare vehicle in place**

The car share vehicle must be provided and in-place. All details must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

88. **Carshare management plan**

A car share management plan must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

89. **Floor Levels – Certification for Flooding**

Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principal Certifying Authority confirming the height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the floor levels are at or above the relevant flood planning levels. A copy of the floor level certification from the registered surveyor must also be submitted to Council for the attention of Council's Drainage and Flood Engineer.

90. **Works-As-Executed Plans – Roadworks including footpath**

Following completion of works and prior to issue of the subdivision certificate, Work-as-Executed Drawings, together with a Work-As-Executed Certification Report, in accordance with Council's requirements are to be submitted to Council. Two categories of Work-as-Executed Drawings are to be submitted to Council, being Amended Design Work-as-Executed Drawings and Summary Work-as-Executed Drawings.

Amended Design Work-as-Executed Drawings, being certified copies of all approved design plans with as constructed departures, deletions and additions clearly noted and detailed on the plans, are to be submitted to Council in the following formats:-

- (a) One (1) paper copy at the same scale and format as the approved design plans, but, marked appropriately for as constructed information and with original signatures; and
- (b) An electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

Summary Work-as-Executed Drawings are to be prepared on a background plan of lot layout and kerb lines with a set of separate plans for stormwater drainage, and site works. Such drawings are to be submitted to Council in the following formats:

- (a) One (1) paper copy of each drawing with original signatures and in accordance with Council's requirements.
- (b) Electronic copy of the above in AutoCAD DWG or DXF format and provided to Council on CD, DVD or via email. The AutoCAD (DWG or DXF) files are to be spatially referenced to MGA Zone 56.
- (c) Electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

Note: Council's requirements are detailed in Council's adopted engineering specifications, currently the Northern Rivers Local Government Development Design and Construction Manuals, and on Council's website.

91. **Maintenance Bond**

With respect to external works undertaken on Council land or with respect to Council assets on any land, a maintenance bond of 5% (**minimum bond amount of \$1,000.00**) of the value of the works constructed is to be lodged with Council. A copy of the contract construction cost of the works is to be submitted with the bond. The maintenance period is 6 months in accordance with Council's current Design & Construction Manuals and will commence from the date of issue of the **Occupation Certificate**. The security may be provided, at the applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

92. **Record of Infrastructure**

A record of infrastructure coming into Council ownership, prior to the issue of the occupation certificate, is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record". This form is available from Council's Local Approvals Section.

93. **Dilapidation Report**

The submission of a certified report from suitably qualified and practising geotechnical and structural engineers, certifying what, if any, impacts/effects that the completed development has had on the neighbouring buildings and associated private and public infrastructure within the zone of influence of the construction site. The report is to also address what measures are to be implemented, and in what time frame, to rectify any such identified defects. The engineers are to be Corporate Members of the Institution of Engineers Australia.

94. **Unexpected Findings Protocol - Contamination & Remediation**

The works engineer must certify to the Principal Certifying Authority that all works have been carried out in accordance with the approved Unexpected Findings Protocol (UFP).

95. **Site Location Survey**

A final survey of the structures showing setbacks to boundaries to be submitted to the Private Certifier with the Occupation Certificate demonstrating compliance with the approved plans.

96. **Swimming pool fencing**

Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.

97. **Swimming pool backwash**

Pool backwash to be connected to a sewer overflow relief gully.

98. **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.

The following conditions are to be complied with prior to commencing operation of food premises

99. **Notification – Food Business**

In accordance with Section 100 of the Food Act 2003, the operator of the food business must submit a completed [Food Business Registration form](#) five (5) working days prior to trading. The notification must occur before the food business commences any food handling operations.

100. **Council Inspection required – Food Premises**

The operator of the food premises shall obtain a satisfactory pre-operational inspection from Councils Environmental Health Officer prior to trading.

Advisory note:

Inspections by Council's Environmental Health Officers can be arranged during the fit-out stage and the final pre-operational inspection. Inspection fees are levied as per Council's adopted Fees and Charges. Note requests for a final inspection must be made with at least five (5) working days' notice.

The following conditions are to be complied with prior to issue of a Strata subdivision certificate

101. **Strata Certificate application required**

An application for a Strata Certificate must be made on the approved form if lodged with Council. The Strata Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application.

NOTE: The application **MUST** be one complete concise package addressing **ALL** conditions of consent relevant to the subdivision with a clear explanation how each condition has been complied with, together with supplying **ALL** the relevant information/documents/certificate and/or plans that is required by that condition. Failure to provide the abovementioned information in one package, will likely result in the application being refused or rejected and returned to you.

102. **Strata Plan**

The strata plan must be in accordance with the approved plan/s. A strata plan administration sheet (original plus one (1) copy), two (2) copies of the strata plan and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a Strata Certificate if lodged with Council.

103. **Car Parking Arrangements**

All car parking spaces are to remain as common property, with the exception of

- two (2) spaces per unit for apartment 1 - liveable unit & apartment 3 - adaptable unit in accordance with the annotated HGA344 DA.04 drawing; and
- one (1) space, which are to be included in the allotment for the relevant unit 2 and units 4 to unit 8.

104. **Water service and meter to be connected to each lot**

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.

105. **Certificate of Compliance – s307 Water Management Act 2000**

Water and sewer services are to be provided to the land in accordance with an approval granted under Section 68 of the Local Government Act 1993.

Payment of developer charges to Byron Shire Council for water supply and sewerage.

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate. Where staging of the Subdivision occurs, a separate s307 Compliance Certificate must be obtained for each stage.

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:

<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

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

Payment by Personal or Company Cheque will not be Accepted

The following conditions are to be complied with at all times

106. Approved Residential Accommodation

This consent includes shop top housing which is a type of residential accommodation under Byron Local Environmental Plan 2014.

shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

The shop top housing is not to be holiday let or used as tourist and visitor accommodation or as short-term rental accommodation unless otherwise approved or exempt under an environmental planning instrument.

107. Roof top pool and deck – residents only

The rooftop pool and deck area must only be used by residents / occupants of the shop top housing.

Use of the outdoor recreation area (BBQ and pool area) at the roof deck must be limited to 7:00 am to 10:00pm in accordance with the approved acoustic report.

108. Approved operation hours

The operating hours of the commercial tenancies (Café/restaurant and retail shops) must be limited to day time operations only, which is 7:00 am to 6:00pm, in accordance with the approved acoustic report unless otherwise approved by separate consent.

109. 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.

110. Collection of Refuse and Waste Bins

- Refuse collection in Fletcher Lane between 7am & 8am only; and
- No Waste Bins in Fletcher Lane after 8am at all times.

111. Must not interfere with the amenity of the neighbourhood

The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, 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 waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e. Goods deliveries shall be restricted to daytime operating hours.

112. **Notification – Food Business**

In accordance with Section 100 of the Food Act 2003, the operator of the food business must submit a completed Food Business Registration form five (5) working days prior to trading. The notification must occur before the food business commences any food handling operations.

113. **Trade Waste**

All trade waste pre-treatment devices shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.

114. **Maintenance of Stormwater Quality Improvement Devices (SQIDs)**

All SQIDs must be maintained in accordance with maintenance plan at all times.

115. **Carshare operation**

The body corporate is the sole operator of the Carshare. Third party operator is not permitted to operate the Carshare.

116. **Pool Safety Sign**

The occupier of the premises must ensure that there is at all times a sign in the immediate vicinity of the swimming pool bearing the words 'Young children must be supervised when using this swimming pool'. The sign is to be a prominent position and be otherwise in accordance with clause 9 of the Swimming Pools Regulation.

A pool resuscitation sign is to be installed in a conspicuous location within the pool area to the satisfaction of the Principle Certifying Authority.

117. **Swimming pool discharge**

Swimming pools must discharge or backwash to an overflow retention gully in accordance with AS/NZS 3500.2.2, Section 10.9 & Figure 10.2.

This work is exempt development in accordance with Councils Local Approvals Policy (2009), however, where it is not possible to discharge to an existing overflow retention gully, a new charged gully may be required. In such circumstances, an application under Section 68 of the Local Government Act is required

118. **Swimming pool pump location**

The filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining residents. If necessary an acoustic enclosure must be provided around the pump to achieve the required noise attenuation.

119. **Swimming Pool Fencing**

Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.

120. **Swimming pool health requirements**

The swimming pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council and NSW Health. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times

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>.



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1149560
Issue date of GTA:	15 February 2024
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	9 Marvell Street Byron Bay NSW 2481
DA Number:	10.2023.73.1
LGA:	Byron Shire Council
Water Sharing Plan Area:	North Coast Coastal Sands Groundwater Sources 2016

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

Condition Number	Details
Dewatering	
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity. Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of

Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO BOX 398, Parramatta, NSW 2124
water.enquiries@waterNSW.com.au | www.waterNSW.com.au



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1149560

Issue date of GTA: 15 February 2024

Type of Approval: Water Supply Work

Description: 80mm submersible pump

Location of work/activity: 9 Marvell Street Byron Bay NSW 2481

DA Number: 10.2023.73.1

LGA: Byron Shire Council

Water Sharing Plan Area: North Coast Coastal Sands Groundwater Sources 2016

- the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- GT0119-00001 All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- GT0120-00001 The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- GT0121-00001 Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
- GT0122-00001 Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
- GT0123-00001 (a) Prior to the issuing of the occupation certificate, and following the completion

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General Terms of Approval

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LGA: Byron Shire Council
Water Sharing Plan Area: North Coast Coastal Sands Groundwater Sources 2016

of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.watarnsw.com.au/customer-service/water-licensing/dewatering

- GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
- GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

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SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with 10.2023.73.1 as provided by Council:

- Dewatering Management Plan, 9 Marvell St, Byron Bay, NSW, CH Marvell Street Pty Ltd, CR Marvell Street Pty Ltd, RR Marvel Street Pty Ltd and TH Marvel Street Pty Ltd, Prepared by Presna Pty Ltd, December 2023.
- Amended Environmental Site Assessment - Rev 1, 9 Marvell St, Byron Bay, NSW, CH Marvell Street Pty Ltd, CR Marvell Street Pty Ltd, RR Marvel Street Pty Ltd and TH Marvel Street Pty Ltd, Prepared by Presna Pty Ltd, December 2023.
- Architectural Plans, Proposed Mixed Used Development, Plans DA.01 to DA.33, drawn by Harley Graham Architects, dated 20/12/2023.



RFS



Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-56141) 10.2023.73.1
Our reference: DA20240325001207-Original-1

ATTENTION: Patricia Docherty

Date: Thursday 28 March 2024

Dear Sir/Madam,

Integrated Development Application
s100B - Subdivision - Strata Title Subdivision
9 MARVELL STREET BYRON BAY 2481, 8/26/DP758207

I refer to your correspondence dated 25/03/2024 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

General Conditions

1. The Community Management Statement must address the following bush fire matters:
 - a. Maintenance of Asset Protection Zones (APZs);
 - b. Landscape maintenance;
 - c. Preparation of emergency and evacuation arrangements for occupants of the development;
 - d. Flammable materials shall not be stored on the balconies; and
 - e. Storage of hazardous materials. Note: All individual retail / commercial lots should provide for the storage of hazardous materials away from the hazard wherever possible.
2. A Bush Fire Emergency Management and Evacuation Plan is to be prepared and:
 - a. Be consistent with the the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan and Australian Standard AS 3745:2010 Planning for emergencies in facilities;
 - b. Include a mechanism for the early relocation of occupants on days when adverse fire weather is notified or adverse fire activity occurs in the local government area in which the development operates;
 - c. Ensure detailed plans of all emergency assembly areas, including on site and off-site arrangements as stated in AS 3745:2010, are clearly displayed;
 - d. Include provision for an annual emergency evacuation to be conducted;
 - e. Be included in the Community Management Statement for the site;
 - f. Be provided to the Local Emergency Management Committee for its information prior to occupation of the development; and
 - g. Be provided to Council prior to any Occupation Certificate being issued.

Asset Protection Zones

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

The intent of measures is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the dwellings are below critical limits and prevent direct flame contact.

3. At the issue of a subdivision certificate, and in perpetuity the entire site must be maintained as an Inner Protection Area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019, except where modified by Condition 6 below.

When establishing and maintaining an inner protection area, the following requirements apply:

- a. tree canopy cover should be less than 15% at maturity;
- b. trees at maturity should not touch or overhang the dwelling;
- c. lower limbs should be removed up to a height of 2 m above the ground;
- d. tree canopies should be separated by 2 to 5 m;
- e. preference should be given to smooth-barked and evergreen trees;
- f. large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards dwellings;
- g. shrubs should not be located under trees;
- h. shrubs should not form more than 10% ground cover;
- i. clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- j. grass should be kept mowed (as a guide, grass should be kept to no more than 100 mm in height); and
- k. leaves and vegetation debris should be removed.

Construction Standards

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

4. New construction must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of dwellings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas - 2021. New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

Water and Utility Services

The intent of measures is to provide adequate services of water for the protection of dwellings 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 dwelling.

5. The provision of new water, electricity and gas must comply with Table 5.3c of Planning for Bush Fire Protection 2019.

Landscaping Assessment

The intent of measures is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the dwellings are below critical limits and prevent direct flame contact.

6. Landscaping is to be designed and managed to minimise flame contact and radiant heat to dwellings, and the potential for wind-driven embers to cause ignitions by complying with the acceptable solutions in Table 5.3a of 'Planning for Bush Fire Protection 2019', except where modified by the following:

- the minor deviations as set out in the landscaping plan prepared by Florian Wild submitted as Appendix B of the 'Bushfire Risk Assessment Report' prepared by Bushfire Risk Pty Ltd, referenced 2305PLA2123 and dated 11th July, 2023;
- non-combustible mulching material shall be used throughout the site, i.e., pebbles; and
- loose litter shall be removed regularly.

General Advice – Consent Authority to Note

The assessment has relied on the referred documents identified below:

- The plan set prepared by Harley Graham Architects, numbered HGA344, revision 'Concept' dated 7th March, 2024; and
- 'Bushfire Risk Assessment Report' prepared by Bushfire Risk Pty Ltd, referenced 2305PLA2123 and dated 11th July, 2023.

For any queries regarding this correspondence, please contact Danette Cook on 1300 NSW RFS.

Yours sincerely,

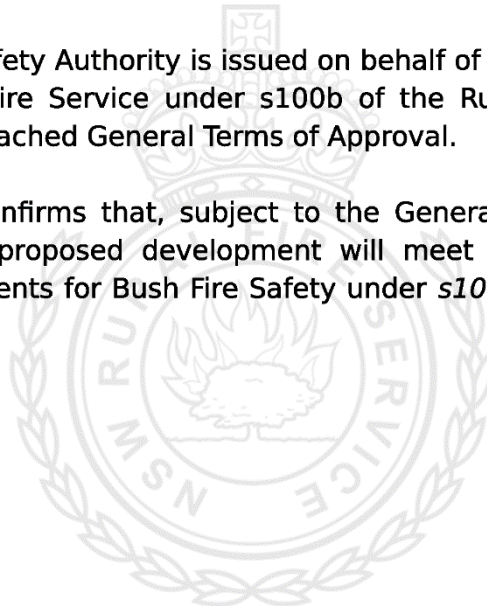
Allyn Purkiss
Manager Planning & Environment Services
Built & Natural Environment

BUSH FIRE SAFETY AUTHORITY

Subdivision – Strata Title Subdivision
9 MARVELL STREET BYRON BAY 2481, 8/26/DP758207
RFS Reference: DA20240325001207-Original-1
Your Reference: (CNR-56141) 10.2023.73.1

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.



Allyn Purkiss

**Manager Planning & Environment Services
Built & Natural Environment**

Thursday 28 March 2024

Schedule 5. 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.

Statement of Reasons

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 2021 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.

How community views were addressed

The DA was notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.

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:-

- 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.

Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on: <http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

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.

Swimming pool discharge (reticulated systems)

Swimming pool waste - irrespective of the filtering system is to be disposed into the property's house drainage - sewerage system via an overflow relief gully with a 100mm visible air gap in accordance with AS/NZS 3500.2, Section 10.9 & Figure 10.2.

This activity is now an exempt activity and does not require approval under Section 68 of the Local Government Act.

If however, site conditions prevent discharge through the existing gully and a new gully is required, this activity will require an approval under S68 before this work can commence.

Note also that this activity must be carried out by a licensed plumber.

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, silage, 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.

Essential Energy General Comments

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure 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;
- 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); the location of overhead and underground powerlines are also shown in the Look Up and Live app essentialenergy.com.au/lookupandlive.

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. **Payments will only be accepted by cash or bank cheque.**

Section 7.11 contributions Schedule						
Byron Bay Suffolk Park						
Catchment						
This schedule was calculated in spreadsheet #E2024/6353						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		8	@	1 SDU	=	8
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	7
Schedule valid until		24-April-2024	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BB)	7.00	SDU @	\$ 4,943.76	=	\$ 34,606.32
LGA Wide Open Space & Recreation	(OS-SW)	7.00	SDU @	\$ 889.83	=	\$ 6,228.81
LGA wide Community Facilities	(CF-SW)	7.00	SDU @	\$ 1,303.25	=	\$ 9,122.75
Local Community Facilities	(CF-BB)	7.00	SDU @	\$ 1,468.55	=	\$ 10,279.85
Bikeways & Footpaths	(CW-BB)	7.00	SDU @	\$ 1,628.04	=	\$ 11,396.28
Shire Wide Bikeways & Footpaths	(CW-SW)	7.00	SDU @	\$ 95.60	=	\$ 669.20
Urban Roads	(R-BB)	7.00	SDU @	\$ 3,560.65	=	\$ 24,924.55
LGA Wide Roads	(R-SW)	7.00	SDU @	\$ 269.26	=	\$ 1,884.82
Rural Roads	#N/A	7.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	7.00	SDU @	\$ 1,345.94	=	\$ 9,421.58
Total						\$ 108,534.16

Water payments under the Water Management Act 2000

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

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT (ET Policy 2018)

Water	7.92 ET
Bulk Water	7.92 ET
Sewer	9.52 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>).

These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.