

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
DA002	2	Development Summary	Bayley Ward	06/12/2023
DA021	2	Demolition Plan	Bayley Ward	06/12/2023
DA102	16	Basement Plan	Bayley Ward	11/04/2024
DA103	15	Ground Floor Plan	Bayley Ward	06/12/2023
DA104	14	Level 01 Plan	Bayley Ward	06/12/2023
DA105	14	Level 02 Plan	Bayley Ward	06/12/2023
DA106	14	Roof Plan	Bayley Ward	06/12/2023
DA201	5	North & South Elevations	Bayley Ward	06/12/2023
DA202	5	East & West Elevations	Bayley Ward	06/12/2023
DA203	5	Courtyard Elevations	Bayley Ward	06/12/2023
DA301	8	Sections A-A, B-B	Bayley Ward	11/04/2024
DA302	5	Sections C-C, D-D	Bayley Ward	06/12/2023
DA510	2	Adaptable Apartments 1	Bayley Ward	06/12/2023
DA511	2	Adaptable Apartments 2	Bayley Ward	06/12/2023
DA601	3	External Finishes Schedule	Bayley Ward	06/12/2023
0110	Rev A	Erosion and Sediment Control Details	Planit	12.05.23
0200	Rev D	Bulk Earthworks Cut & Fill Plan	Planit	22.03.24
0210	Rev B	Bulk Earthworks Section	Planit	12.12.23
0300	Rev E	Civil Works Plan	Planit	22.03.24
0310	Rev C	Typical Sections	Planit	12.12.23
0320	Rev C	Road Longsections	Planit	06.03.24
0410	Rev D	Stormwater Layout Plan	Planit	22.03.24
0450	Rev B	Stormwater System Details	Planit	12.12.23

Title	Version No.	Prepared by	Dated
Sustainable Management Plan	Version: 03 (Doc #E2024/21026)	Hip V Hype	23 February 2024
Landscape Concept	(REV F) (Doc #E2023/135178)	LARC	09.12.23
Preliminary Public Art Proposal	(Doc E2024/4302)	Thomgallery	-
Site Waste Minimisation Plan	(Doc #E2023/135183)	Craig Helbig – Principal Environmental Scientist	28/11/2023
Acoustic Report Proposed Mixed Use Development 119-123 Jonson Street Byron Bay	Ref: 1022002 R01E	Acoustics Works	12/05/2023
Preliminary Site Investigation Proposed Mixed Use Development, 119-123 Jonson Street, Byron Bay , NSW	Ref: 216646	ENV Solutions Pty Ltd	09/06/2022
Remedial Action Plan Proposed Mixed Use	Ref: 246646	ENV Solutions Pty Ltd	11/07/2022

Development, 119-123 Jonson Street, Byron Bay NSW			
Acid Sulfate Soil Management Plan Proposed Mixed Use Development, 119-123 Jonson Street, Byron Bay, NSW	Ref: 246646	ENV Solutions Pty Ltd	15/05/2022
Dewatering Management Plan (DMP), Proposed Mixed Use Development, 119-123 Jonson Street, Byron Bay, NSW	Ref: 246646	ENV Solutions Pty Ltd	22/09/2023
Report on 119-123 Jonson Street Hydrological Report	Ref: BTR5000.001 V02.01	Australasian Groundwater and Environmental Consultants Pty Ltd	03/08/2022

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. **Staging construction certificates**

Construction Certificates to be generally in accordance with the following stages;

- Stage 1 – Basement excavation, retention and shoring;
- Stage 2 – Construction of basement slab including in-ground services;
- Stage 3 – Construction of structure including services;
- Stage 4 – Completion of works, landscaping and public art;

Plans, specifications and relevant documentation accompanying the Construction Certificate relevant to this stage must include any requirements imposed by the conditions of this Development Consent. Stages can be combined if required.

3. **Laundries must be provided in all shop top housing apartments**

Apartments must provide for laundry areas that can incorporate clothes driers or spaces to provide clothes drying areas.

4. **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.

5. **Support for neighbouring buildings**

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

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

6. **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** to this consent.

7. **Integrated Approvals from other State Government Approval Bodies**

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, for dewatering management under the Water Management Act 2000 and is subject to the General Terms of Approval from *Water NSW* dated 6 February 2024 contained in a **Schedule** of this consent.

8. **Essential Energy Safety Requirements**

A distance of 2.7 metres to low voltage overhead eastern side from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required to ensure that there is no safety risk

A distance of 3.4 metres to high voltage overhead western side from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required to ensure that there is no safety risk.

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

9. **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.

10. **Construction Environmental Management Plan**

A Construction Environmental Management Plan (CEMP) must be submitted to Council for approval prior to demolition or construction works commencing. The CEMP must be prepared by a suitably qualified professional and contain details of measures to be undertaken to ensure that demolition or construction works do not result in any off-site impacts that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. All works must be in accordance with NSW WorkCover Authority.

Demolition works must not commence until Council has reviewed and approved the Construction Environmental Management Plan (CEMP).

11. **Hazardous Material Audit**

Asbestos in existing structures require management and a hazardous material audit must be undertaken prior to demolition works being undertaken. The HMA must be proposed by a duly qualified professional and submitted to council for approval prior to the commencement of demolition works.

12. **Excavation depth and dewatering limited**

Excavations and dewatering shall not commence until the Construction Certificate for building works.

13. **Sustainability Commitments Prior Construction Certificate**

The plans submitted with the application for a construction certificate shall include all commitments and standards set out in the " Sustainable Management Plan Version: 03 prepared by Hip V Hype , dated 23 February 2024" to the satisfaction of the Council.
This shall include avoidance of all Red Listed materials.

14. **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.

15. **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.

16. **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".

17. **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 Jonson 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. The maintenance contract to include a renewal arrangement regime to ensure SQIDs are maintained in accordance with the manufacturers specification at all times and 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.

18. **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 Middleton 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) Full road reconstruction including upright kerb and gutter, road pavement and associated drainage construction and any necessary relocation of services as follows:

- across the full frontage of the site, extending across the full frontage of 125 Jonson St and the intersection of Middleton Lane) and Kingsley St (including any driveway upgrading to the existing driveway of 14 Kingsley St;
- retaining walls;
- upgrade existing driveways;
- electrical infrastructure in accordance with service providers requirement
- streetlighting in accordance with AS1158;
- underground drainage;
- other services utilities upgrading requirement; and
- linemarking & signage.

b) Roadworks in Kingsley St

- (i) Roadworks including the design and construction of on-street parking generally in accordance with the approved plans;
- (ii) Footpath design to meet part D4.2.13 of Chapter D4 of BDCP 2014;
- (iii) Ramps in accordance with Council's standard drawing R-04;
- (iv) Redundant driveway to be removed;
- (v) Walkway and ramps gradient to meet the accessible requirement in AS1428 and must transition with the existing footpath levels with neighbouring sites in Kingsley St and Jonson St;
- (vi) Crossfall of 1 % or 1:100 (maximum 2.5% or 1 in 40);
- (vii) Redesign the 45° metered parking to 90° metered parking to accommodate a minimum of 11 parking spaces including 1 accessible parking;
- (viii) Parking design in accordance with Table 3.3 of AS2890.5;
- (ix) Accessible parking design to address all parts of clause 4.5 of AS2890.5;
- (x) Stormwater drainage upgrade;
- (xi) Electricity & streetlighting in accordance with AS1158; and
- (xii) Linemarking and signage including markings to guide traffic in accordance with Figure 2.1 typical end clearances of AS2890.5.

c) Roadworks in Jonson St

- (i) Roadworks generally in accordance with the approved plans;
- (ii) Footpath design to meet part D4.2.13 of Chapter D4 of BDCP 2014;
- (iii) Ramps in accordance with Council's standard drawing R-04;
- (iv) Walkway and ramps gradient to meet the accessible requirement in AS1428 and must transition with the existing footpath levels with neighbouring sites in Jonson St;
- (v) Crossfall of 1 % or 1:100 (maximum 2.5% or 1 in 40);
- (vi) Redundant driveways to be removed and replace kerb & gutter to match the existing;
- (vii) Re-linemark the 45° metered parking bays in accordance with the approved plans;
- (viii) Parking design in accordance with Table 3.3 of AS2890.5;
- (ix) Accessible parking design to address all parts of clause 4.5 of AS2890.5;
- (x) Linemarking and signage including markings to guide traffic in accordance with Figure 2.1 typical end clearances of AS2890.5.

d) Local Traffic Committee requirements

All works associated with the provisions of regulatory signage and linemarking are subject to Local Traffic Committee Recommendation.

e) 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.

f) Awnings and structures

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.

g) Public Art Implementation Plan

Plans must demonstrate the curtilage improvements to the siting of the public art concept as listed under Condition No.1 having regards to the provision of car parking to be constructed in Kingsley Street

Full details on the siting, construction, and maintenance of the public art piece are to be detailed and are subject to approval to the satisfaction of Council Infrastructure Services.

19. **Flood Planning Level**

The flood planning level for this development is 3.40m 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.

20. **Basement, MRV loading bay, 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) MRV loading bay in accordance with AS2890.2
- d) Accessible parking in accordance with AS2890.6
- e) Residential parking designed in accordance with User Class 1A in AS2890.1
- f) Commercial parking design in accordance with User Class 4 and in accordance with AS2890.6
- g) Eight (8) motorcycle parking designed in accordance with AS2890.1
- h) Sixteen (16) bicycle parking designed in accordance with AS2890.3
- i) Column location designed in accordance with clause 5.2 of AS2890.1;
- j) Steep grade warning signs are to be provided with grades of 1:6 or greater;
- k) One-way circulation signage;
- l) Directional painted arrows in accordance with Figure 4.3 of AS2890.1
- m) eighty three (83) parking spaces consisting of: -
 - forty five (45) parking spaces consisting of 42 user class 1A including three (3) user class 4 spaces
 - thirty three (33) user class 3 including six (6) carshare spaces plus two (2) user class 4 spaces and three (3) user class 1;
- n) grades and transitions to comply with AS 2890.1;
- o) pavement description;
- p) site conditions affecting the access;
- q) existing and design levels;
- r) longitudinal section from the road centreline to the to the base of each ramp;
- s) cross sections every 15 metres;
- t) drainage details;
- u) turning paths; and
- v) 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".

21. **Basement Carpark Linemarking plan required**

The application for a Construction Certificate is to include a carparking linemarking plan including the allocation of residential unit parking spaces, directional signage and relevant requirements specified in section 4 of AS2890.1.

22. **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.

23. **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.

24. **Traffic Management Plan for Occasional Service of Loading Bay**

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Management Plan (TMP) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic for occasional service of Loading Bay. The TMP is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The plan shall incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays and safety due to occasional service requirements of the loading bay during business hours of the development to satisfy clause 3.2.2 of AS2890.2.

The TMP must be prepared by a suitably qualified Transport for NSW accredited person.

25. **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 unless owner's consent is provided by all affected property owners including Byron Shire Council.

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

26. **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 for 6 (six) vehicles. The car share provisions are to include the following, with any variations sought to these specifications, to be agreed to the satisfaction of Council:

- to specify the responsible body or organisation who will own and maintain the vehicles at all times;
- vehicles are to be:
 - capable of accommodating a minimum of four adults;
 - available to residents, commercial tenants and the public;
 - no more than 5 years in age from the time of manufacture;
 - an automatic;
 - suitable for use on sealed and unsealed roads;
 - 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.
- A replacement regime arrangement for cars associated with the car share to ensure that vehicles are less than 5 years old at all times.

The Management Plan is to address the above requirements and include the following detail, if available:

- a) Type of vehicle;
- b) Reserved Parking location in the Basement;
- c) Booking arrangements and measures;
- d) Refuelling and/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.

27. **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.

28. **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).

29. **Excavation depth and dewatering limited**
Excavations and dewatering below the final approved basement level and lift overrun are not permitted without prior approval from Council. Details of method of construction including piling and basement tanking walls and the like to be included. Such approval must be obtained after the date of this consent.
30. **Details of acoustic treatments for building construction to be submitted for approval**
The application for a Construction Certificate is to include plans and specifications that demonstrate the inclusion of acoustic treatments for building construction recommended in Section 9. 1 Acoustic Report Proposed Mixed Use Development 119-123 Jonson Street Byron Bay Ref: 1022002 R01E prepared by Acoustics Works dated 12/05/2023. Such plans and specifications must be approved as part of the Construction Certificate for building works.
31. **Plans and specifications for noise barrier must be submitted for approval**
The application for a Construction Certificate is to include plans and specifications for 2.1m high noise barrier recommended for inclusion on the southern property boundary as shown in Section 9.2 Acoustic Report Proposed Mixed Use Development 119-123 Jonson Street Byron Bay Ref: 1022002 R01E prepared by Acoustics Works dated 12/05/2023. Such plans and specifications must be approved as part of the application for a Construction Certificate for building works.
32. **Details of onsite mechanical plant design to be submitted for approval**
The application for a Construction Certificate is to include detail of on-site mechanical plant design as recommended in Section 9.3 Acoustic Report Proposed Mixed Use Development 119-123 Jonson Street Byron Bay Ref: 1022002 R01E prepared by Acoustics Works dated 12/05/2023. Such plans and specifications must be approved as part of the application for a Construction Certificate for building works.
33. **Noise and Vibration Management Plan required**
A Noise and Vibration Management Plan must be submitted to Council for approval prior to the issue of the construction certificate for building works. The Noise and Vibration Plan must be prepared by a duly qualified professional and detail the methods that will be implemented for the whole project to minimise construction noise and vibration. Information must include:
- a. Identification of the specific activities likely to generate noise or vibration impacts.
 - b. Identification of nearby residences and other sensitive land uses.
 - c. Identification of all potentially affected sensitive receivers.
 - d. Assessment of expected noise and vibration from the construction activities construction activities that are likely to affect their amenity or cause structural damage through vibration.
 - e. Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts.
 - f. Noise and vibration monitoring, reporting and response procedures.
 - g. Strategies to promptly deal with and address noise complaints.
 - h. Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction.
 - i. Details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment).
 - j. Procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts.
 - k. Reference to relevant consent conditions.
 - l. Name and qualifications of person who prepared the report.
 - m. Nomination of an appropriate responsible person with appropriate qualifications and experience to implement and manage noise and vibration matters arising from the construction phase of the development. The responsible person must be available to receive neighbourhood inquiries and complaints at any time while work is proceeding and must record monitoring levels and response actions when exceedances or complaints occur.
 - n. Contingency plans to be implemented in the event of non-compliance and/or complaints.

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

34. **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.

35. **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 duly qualified person experienced in matters relating to Contamination of Land and Remediation.

36. **Garbage storage area to be provided**

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

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

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

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

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

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information

www.byron.nsw.gov.au/files/publication/swmmp-pro-forma-doc

38. **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.

Note: Permanent post construction dewatering of groundwater is not permitted.

39. **Point of discharge for dewatering**

Dewatering operations must strictly be in accordance with the Detailed Dewatering Management Plan approved by Council and conditions imposed by this consent.

The point of discharge for excavated groundwater after treatment is into the stormwater drains via Jonson Street stormwater system.

Prior to commencing dewatering operations all relevant Section 68 approvals must be obtained subsequent to the date of this consent.

40. **Groundwater Contingency Management Plan required**
An application for a construction certificate is to include a Groundwater Contingency Management Plan. The plan must include contingency actions for managing groundwater in the eventuality that it cannot meet discharge quality criteria in Dewatering Management Plan (DMP), Proposed Mixed Use Development, 119-123 Jonson Street, Byron Bay prepared by ENV Solutions Pty Ltd dated 22/09/2023 and approved Acid Sulfate Soil Management Plan, Mixed Development, 119-123 Jonson Street, Byron Bay, NSW prepared by ENV Solutions Pty Ltd dated 15/05/2023 must be prepared by a duly qualified Environmental Scientist and approved as part of the Construction Certificate application.
41. **Groundwater Monitoring Plan**
An application for a construction certificate is to include a Groundwater Monitoring Plan. The Plan must be prepared in accordance with monitoring recommended in Report on 119-123 Jonson Street Hydrological Report Ref: BTR5000.001 V02.01 dated 03/08/2022. Monitoring shall occur prior to, during and after construction. A report with results to be provided to Council prior to the issue of a final occupation certificate.
42. **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).

43. **Shower requirements**
Shower facilities shall be provided for the use of all residents before entering the pool and shall be designed and located so that:
- a. the shower access is close to the area of the pool;
 - b. the floors, walls and ceiling are made of materials that permit easy and thorough cleaning;
and
 - c. there is hot and cold running water with either, a tempering or mixing device on the hot water system designed to prevent scalding, or a maximum hot water temperature not exceeding 43°C at any time.

44. **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.
- 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.
45. **Water and Sewerage - Section 68 Part B approval**
If required, an **Approval** under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.
- Water metering to be in accordance with Byron Shire Council's water metering requirements
See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>
- Any new water service and meter will be at applicants cost.
46. **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.
47. **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 \(nsw.gov.au\)](#)
- Liquid Trade Waste approval must be obtained prior to gaining Section 68 Part B approval to carry out water supply work and sewerage work.
48. **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.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

49. **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.

50. **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.byron.nsw.gov.au or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

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

51. **Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1361904M_03, dated 29 February 2024.

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.

52. **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.

53. **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.

54. **Tree Removal**

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

55. **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

56. **Public Safety Management Plan**

The approved public safety management plan is to be implemented.

57. **Traffic Management Plan**

The approved traffic management plan is to be implemented.

58. **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.

59. **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.

60. **Remediation of Contaminated Land**

Prior to the commencement of any works associated with this development consent, the following is required:

- a. A suitably qualified contaminated land specialist with experience in the remediation of contaminated land must be engaged by the proponent to oversee and be responsible for all works associated with the implementation of the Remedial Action Plan and subsequent site and soil validation.
- b. A notice of commencement of the remediation work and a copy of the Remedial Action Plan must be provided to Council's Health and Environment Section at least 30 days prior to commencement of the work.
- c. The notice of commencement must include contact details of the responsible person, including an emergency 24-hour phone number

61. **Acoustic Report**

Building and associated works to be carried out in accordance with the approved Acoustic Report Proposed Mixed Use Development 119-123 Jonson Street Byron Bay Ref: 1022002 R01E prepared by Acoustics Works dated 12/05/2023.

62. **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.

63. **Copies of Approved Plans**

Copies of approved all approved plans must be keep in a prominent location on site where they can be easily accessed by construction and operational personnel.

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

All controls and measures must be maintained in accordance with approved 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.

65. **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.

66. **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)

67. **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

68. **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.

69. **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.

70. **Remedial works must be completed**

Remedial work must be completed in accordance with Remedial Action Plan Proposed Mixed Use Development, 119-123 Jonson Street, Byron Bay NSW Ref: 216646 prepared by ENV Solutions dated 11/07/2022. Validation sampling must be in accordance with NSW EPA Sampling design part 1 – application (2022).

71. **Notice of Completion and Validation Report required**

A notice of completion must be submitted to Council before any building works commence. The notice of completion must be accompanied by a validation report specifying the standard of remediation achieved and certifying that the site is suitable for the proposed use. The report must conform to the NSW EPA Consultants Reporting on Contaminated Land – Contaminated Land Guidelines (2020), NSW EPA Sampling design part 1 – application (2022) and must provide information confirming that the EPA guidelines and all other regulatory requirements have been met. In particular, documentary evidence is required to confirm that any disposal of soil off-site is done in accordance with the RAP and regulatory requirements.

72. **Acid Sulfate Soils Management**

Acid sulfate soils must be managed and disposed of in accordance with the approved Acid Sulfate Soil Management Plan Proposed Mixed Use Development, 119-123 Jonson Street, Byron Bay, NSW Ref: 216646 prepared by ENV Solutions Pty Ltd dated 15/05/2022. A copy of this report must be kept on the property at all times during construction and made available to any person.

73. **Dewatering of Excavations**

Dewatering of excavations must be conducted in accordance with Dewatering Management Plan (DMP), Proposed Mixed Use Development, 119-123 Jonson Street, for JGD Developments Pty Ltd prepared by ENV Solutions Pty Ltd dated 22/09/2023 and Acid Sulfate Soil Management Plan, Mixed Development, 119-123 Jonson Street, Byron Bay, NSW prepared by ENV Solutions Pty Ltd dated 15/05/2022. 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.

74. **WorkCover Authority**

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

75. **Removal of black sand material**

All radioactive black sand material wastes associated with construction of the basement must be disposed of in accordance with the requirements of the Remedial Action Plan Proposed Mixed Use Development, 119-123 Jonson Street, Byron Bay NSW Ref 216646 dated 11/06/2022 and NSW EPA Sampling design part 1 – application (2022) (as approved by council). The applicant/owner is to produce documentary evidence that this condition has been met.

76. **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:

- a. must preserve and protect the adjoining building from damage;
- b. if necessary, must underpin and support the building in an approved manner;
- c. must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land, public road or any other public place is not to be held liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the public road, any other public place or the adjoining allotment of land.

77. **Stormwater drainage work**

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

78. **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.

79. **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.

80. **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.
81. **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.**
82. **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 can not accept asbestos. You will need to arrange disposal at an alternate landfill site.
83. **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.
84. **Demolition, construction and building 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 Licensed Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with NSW DECC Waste Classification Guidelines (2014)
www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf
85. **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.
86. **Removal of asbestos**
All asbestos wastes associated with removal of the existing structures must 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.
87. **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.
88. **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](#).
89. **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.

90. **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

91. **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.

92. **Land to be consolidated**

All separate parcels of land are to be consolidated into one allotment and registered with NSW Land Registry Services prior to the issue of the Occupation Certificate

93. **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.

94. **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.

95. **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.

96. **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"

97. **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.

98. **Acoustic Report**

The Principal Engineer must provide certification in writing to Council that all works were carried out in accordance with the approved Acoustic Report Proposed Mixed Use Development 119-123 Jonson Street Byron Bay Ref: 1022002 R01E prepared by Acoustics Works dated 12/05/2023.

99. **Noise attenuation requirements for plant machinery and building construction design**

A suitably qualified acoustic engineer must certify that attenuation measures for plant machinery and building construction design have been constructed in order to achieve compliance with approved plans and Acoustic Report Proposed Mixed Use Development 119-123 Jonson Street Byron Bay Ref: 1022002 R01E prepared by Acoustics Works dated 12/05/2023. Certification is to be submitted to Council prior to issue of an Occupation Certificate.

100. **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.

101. **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).

102. **Destination for all excavated materials during construction**

The works contractor responsible for the construction and excavation of the basement must develop and maintain a register of materials that will be taken off-site for treatment, disposal, or any other purpose. The register must accurately record the destination and volume of every load of material (including clean soil, recyclable material, acid sulfate or potential acid sulfate soil, radiological waste, asbestos containing materials, sludge from dewatering treatment tanks, etc.). Individual vehicle registrations associated with off-site transport of materials and excavation waste to be recorded in the register.

Council must be provided with a copy of the completed register prior to the issuing of the Occupation Certificate.

Advisory note:

No transporting of unclassified waste, hazardous materials or material contaminated by demolition waste is permitted to be delivered to unapproved private land within NSW. Heavy penalties apply under the Contaminated Land Management Act for any failure to manage site waste materials.

103. **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.

104. **Roadworks, access, internal circulation roadway and basement car park to be completed.**
The roadworks, access, internal circulation roadway, loading bay and basement car park are to be constructed in accordance with the approved plans and Roads Act consent.
105. **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](#)
106. **Carshare management plan and car share vehicles in place**
A final updated car share management plan must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate. The car share vehicles must be provided and in-place.
107. **Works-As-Executed Plans – Roadworks including drainage and 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.
108. **Public Art to be installed**
The public art is to be installed to Council requirements detailed in the public art implementation plan and to the satisfaction of Council.
109. **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.

110. **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.
111. **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.
112. **Swimming pool fencing**
Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.
113. **Swimming pool backwash**
Pool backwash to be connected to a sewer overflow relief gully.

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

114. **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.
115. **Council Inspection required – Food Premises**
The operator of the food premises shall obtain a satisfactory pre-operational inspection from Council's 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.
116. **Airconditioning**
Airconditioning must be installed in the approved food and drink premises and commercial premises where approved operational hours are after 10 pm.
- Airconditioning is required to provide cooling and ventilation only where doors and windows are closed in accordance with the approved Acoustic Report prepared by Acoustics Works to attenuate operational noise between 10pm and 7am Monday to Saturday and 10pm to 8am Sunday.

The following conditions are to be complied with at all times

117. **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 used for another use (e.g. serviced apartments) unless a change of use is otherwise approved.

118. **Approved hours of operation**

The development must not unreasonably interfere with the amenity of the neighbourhood. In particular operating noise, when audible on adjoining residential premises, can only occur:

Food & Drink Premises:

All days: from 7am to midnight.

Commercial (Shops):

Monday to Friday, from 7am to 6pm.

Saturday and Sunday, from 7am to midnight.

Roof top and pool:

Monday to Saturday, from 7am to 10pm.

Sunday (and public holidays) from 8am to 10pm.

Waste Collection & Deliveries:

Monday to Saturday, from 7am to 6pm.

No waste or deliveries on Sundays or public holidays.

119. **Roof top pool and deck – residents only**

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

Use of the communal outdoor pool and roof deck must be limited to the day and evening time periods 7:00 am to 10:00pm Monday to Saturday and from 8am to 10pm Sunday (and public holidays) in accordance with the approved acoustic report.

Amplified sound shall not be emitted from the rooftop pool area.

120. **Shower / amenities management**

All shower / amenities provided shall be managed to ensure that:

- a. all tapware, shower stalls and basins are cleaned and disinfected daily
- b. scrubbing to remove soap and dirt accumulation must be undertaken weekly
- c. cleaning and disinfection of shower floors must be performed daily
- d. cleaning and disinfection of toilets and urinals must be undertaken daily
- e. soap must be provided in all showers and basins.

121. **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.

122. **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.
123. **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.
124. **Swimming Pool Fencing**
Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.
125. **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
126. **Acoustic Report Requirements**
At all times the development shall be operated in accordance recommendations contained within Acoustic Report Proposed Mixed Use Development 119-123 Jonson Street Byron Bay Ref: 1022002 R01E prepared by Acoustics Works dated 12/05/2023.
- In particular, at all times the following conditions must be complied with:
- a. Background music shall be limited to 70dBA in all commercial spaces when measured at 1m from the speakers.
 - b. The pool and recreational area shall be limited to the day and evening time periods (7am to 10pm) and as approved by conditions of this consent for operational days and hours.
 - c. Doors and windows on the western and northern façade to commercial spaces 1 to 6 shall remain closed during night period (10pm to 7am Mondays to Saturdays and 10pm to 8am Sundays).
 - d. Waste collections to be conducted in accordance with other commercial properties recommended hours of 7am and 6pm and 8am to 6pm on weekends.
127. **Outdoor Dining**
Outdoor dining is not permitted on site without a subsequent acoustic assessment and prior approval of Council.
128. **Food Act 2003 and Food Regulation 2015 (incorporating Food Standard Code)**
The food and drink premises shall be operated and maintained to ensure that the requirements of the Food Act 2003 and Food Regulation 2015 (incorporating Food Standard Code) are satisfied at all times. Access to the Food Standard Code is available at <http://www.foodstandards.gov.au>.
- The operator is required to ensure that the business is registered with the NSW Food Authority. Notification may be carried out or updated when required at <http://www.foodnotify.nsw.gov.au>.
129. **Trade Waste**
All trade waste pre-treatment devices shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
130. **Work Health and Safety Act 2011**

The operator of the café shall comply with the Work Health and Safety Act 2011 statutory requirements. Staff shall be provided with adequate toilet and washing facilities.

131. **NSW Smoke-free Environment Amendment Act 2004**
The café shall comply with the provisions of the NSW Smoke-free Environment Amendment Act 2004
132. **Public Property and Safety**
The activity and any associated structures shall not infringe upon public property without the prior written consent of Council. All activities shall be conducted in a manner that will ensure that public safety is not placed at risk.
133. **Maintenance of Stormwater Quality Improvement Devices (SQIDs)**
All SQIDs must be maintained in accordance with the approved maintenance plan at all times.
134. **Carshare operation**
The building owners/operators or future body corporate is responsible for ensuring the ongoing operation of the car share arrangements are accommodated on site at all times.
- If the car share is provided by a third-party operator, the terms of agreement / contract between the car share operator and the building owners/operators or future body corporate are to be included in the final car share management plan and monitoring documents required under this consent.
- Such documents are to be made available to Council, if requested.
135. **Basement car parking spaces and loading bay area are to be available for the approved use**
83 car parking spaces including 5 accessible parking spaces & 6 Carshare, 8 motorcycle spaces, 16 bicycle spaces and 1 MRV loading bay are to be provided and maintained, together with all necessary access driveways and turning areas, to the satisfaction of Council.
- (i) **Commercial Parking**
Tenants and customers of the development must have unrestricted access to the car parking spaces including Carshare, motorcycle spaces and bicycle spaces on a daily basis during business hours of the development.
- No car parking spaces are to be reserved (generally or specifically) for any tenant or customer.
- (ii) **Residential Parking**
45 carparking spaces including 3 accessible carparking spaces and 6 visitors carparking spaces required for the residential component of the development are to be reserved and made available for particular residents.
- Tandem parking spaces are to be allocated to one (1) residential unit only and are not to be shared with other residential units.
136. **Loading bay for occasional service only**
(i) Loading bay for occasional service only in accordance with clause 3.2.2 of AS2890.2; and
(ii) Implement the approved TMP for occasional service of loading bay at all times.
137. **Public Art to be maintained**
The public art is to be maintained in accordance with the public art implementation and maintenance at all times.
138. **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.
139. **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.

Schedule 2. PRESCRIBED CONDITIONS

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

- [69](#) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- [70](#) Erection of signs
- [71](#) Notification of Home Building Act 1989 requirements
- [72](#) Entertainment venues
- [73](#) Maximum capacity signage
- [74](#) Condition relating to shoring and adequacy of adjoining property
- [75](#) Fulfilment of BASIX commitments

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

Schedule 3. INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL



General Terms of Approval

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

Reference Number: IDAS1151161
Issue date of GTA: 06 February 2024
Type of Approval: Water Supply Work
Description: 80mm submersible pump
Location of work/activity: 119-123 Jonson Street and 14 Kingsley Street Byron Bay NSW 3481
DA Number: 10.2023.235.1
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@watnsw.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@watnsw.com.au | www.watnsw.com.au



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

Reference Number:	IDAS1151161
Issue date of GTA:	06 February 2024
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	119-123 Jonson Street and 14 Kingsley Street Byron Bay NSW 3481
DA Number:	10.2023.235.1
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

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:	IDAS1151161
Issue date of GTA:	06 February 2024
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	119-123 Jonson Street and 14 Kingsley Street Byron Bay NSW 3481
DA Number:	10.2023.235.1
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

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 10.2023.235.1 as provided by Council:

- Response to WaterNSW RFI prepared by ENV Services Pty Ltd - PROJECT NAME: Secret Garden
- SITE ADDRESS: 119-123 Jonson St, Byron Bay - Dated 22nd September 2023
- Updated Development Application - The Secret Garden Site Mixed Use Development - 119-123 Jonson Street & 14 Kingsley Street, Byron Bay - Prepared by Planners North December 2023
- Bayley Ward Plans - Proposed Development 119-123 Jonson Street Byron Bay, NSW, 2481 - Rev 2 6/12/2023

Schedule 4. 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 advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.

To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

Schedule 5. NOTES

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing.

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

Principal Certifying Authority:

Work must not commence until the applicant has: -

- appointed a Principal Certifying Authority (if the Council is not the PCA); and
- given Council at least two days' notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

NSW Environmental Protection Authority

NSW Environmental Protection Authority advise that the applicant must contact Qld Department of Environment and Heritage Protection <https://www.ehp.qld.gov.au/> to obtain a consignment number for a Waste Transport Certificate which must be emailed to <https://www.hazardouswaste@epa.nsw.gov.au/>

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>

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 power lines 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 =		3	@	0.75 SDU	=	2.25
3 bedroom units/dwellings =		18	@	1 SDU	=	18
Allotments =		0	@	1	=	0
Less Site Credits =		3	@	-1	=	-3
Total SDU					=	17.25
Schedule valid until		24-April-2024	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BB)	17.25	SDU @	\$ 4,943.76	=	\$ 85,279.86
LGA Wide Open Space & Recreation	(OS-SW)	17.25	SDU @	\$ 889.83	=	\$ 15,349.57
LGA wide Community Facilities	(CF-SW)	17.25	SDU @	\$ 1,303.25	=	\$ 22,481.06
Local Community Facilities	(CF-BB)	17.25	SDU @	\$ 1,468.55	=	\$ 25,332.49
Bikeways & Footpaths	(CW-BB)	17.25	SDU @	\$ 1,628.04	=	\$ 28,083.69
Shire Wide Bikeways & Footpaths	(CW-SW)	17.25	SDU @	\$ 95.60	=	\$ 1,649.10
Urban Roads	(R-BB)	17.25	SDU @	\$ 3,560.65	=	\$ 61,421.21
LGA Wide Roads	(R-SW)	17.25	SDU @	\$ 269.26	=	\$ 4,644.74
Rural Roads	#N/A	17.25	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	17.25	SDU @	\$ 1,345.94	=	\$ 23,217.47
Total						\$ 267,459.19

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	18.1 ET
Bulk Water	18.1 ET
Sewer	22.1 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.